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The Impact of Student Assistance on the Granting and Service of Temporary Restraining Orders

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Article

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Temporary Restraining Orders ("TROs") provide victims of domestic violence temporary ex parte court-ordered protection against further abuse. Because the vast majority of TRO applications are filed pro se, legal and logistical hurdles often prevent deserving applicants from receiving the legal protection to which they are entitled. Chief among these hurdles is the fact that TROs do not go into effect until they are served on respondents, yet service rates are very low.

In this Article, we study the factors that affect whether judges grant ex parte TRO applications and whether the TROs are subsequently served. In particular, we evaluate the impact of a program in New Haven, Connecticut, that uses law students to provide clerical, non-legal assistance to applicants. We find that applicants assisted by Yale Law School students are no more or less likely to have their applications granted, but that student assistance is associated with a double-digit percentage point increase in in-hand service. Factors that affect grant rates include gender, judge assignment, and various severity factors like police involvement. We confirm earlier evidence that service rates of TROs are exceptionally low, and we find that in-hand service rates are relatively lower for people of color. We conclude by proposing possible reforms to law school interventions and the TRO application process that would reduce granting and service hurdles for pro se applicants.

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The Impact of Student Assistance on the Granting and Service of Temporary Restraining Orders

IAN AYRES,[*] BRENDAN COSTELLO[**] & ELIZABETH VILLARREAL[***]

INTRODUCTION

Temporary Restraining Orders ("TROs") are emergency civil orders that provide victims of family violence additional protection from violence or unwanted contact. TROs are one of the most important ways that the government has chosen to respond to the problem of domestic violence,[1] and are one of the most common ways that people interact with the court system. At any given time, there may be as many as two million protective orders (including TROs and related or longer orders) in effect nationwide.[2] As a

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[1] Sally F. Goldfarb, *Reconceiving Civil Protection Orders for Domestic Violence: Can Law Help End the Abuse Without Ending the Relationship?*, 29 CARDOZO L. REV. 1487, 1503–04 (2008).

[2] There were 1.4 million protection orders registered in federal databases and 2.1 million in state databases in 2014. BECKI GOGGINS & ANNE GALLEGOS, BUREAU OF JUST. STATS., STATE PROGRESS IN RECORD REPORTING FOR FIREARM-RELATED BACKGROUND CHECKS: PROTECTION ORDER

point of comparison, the National Center for State Courts estimates that 1.5 million Americans serve on a jury each year.[3] Many experts support this emphasis on the court system because they believe TROs are one of the most effective tools victims have for preventing further abuse.[4]

Depending on the state and the type of protection issued, TROs may also be known as civil orders of protection, relief from abuse orders, no contact orders, or stay away orders. As the names suggest, orders vary by state and are customizable to the needs of the applicant.[5] They usually enjoin another person (the "respondent") from contacting or coming near the applicant, and may also give applicants temporary custody of their shared children, require the respondent to vacate a shared home, or compel the respondent to maintain mortgage, insurance, or child support payments.[6] Importantly, TRO applications are often granted on an ex parte basis (without participation by the respondent), going into effect as soon as they are served

SUBMISSIONS 1 (2016). Theoretically, these databases should have similar entries, so the real number may be higher or lower depending on how well the databases were maintained to eliminate expired orders and how consistently local law enforcement reported orders to federal offices. In 2016, the Connecticut Judicial Branch reported that 8,334 applicants filed for a restraining order in Connecticut. STATE OF CONN. JUD. BRANCH, QUARTERLY PROTECTIVE ORDER / RESTRAINING ORDER DATA THROUGH 12/31/2016, https://www.jud.ct.gov/statistics/prot_restrain/Prot_Restrain_Order.pdf (last visited Oct. 2, 2020).

[3] HON. GREGORY E. MIZE, PAULA L. HANNAFORD-AGOR & NICOLE L. WATERS, CTR. FOR JURY STUD., THE STATE-OF-THE-STATES SURVEY OF JURY IMPROVEMENT EFFORTS: EXECUTIVE SUMMARY 2, https://www.ncsc-jurystudies.org/__data/assets/pdf_file/0018/5319/sos_exec_sum.pdf (last visited Oct. 2, 2020).

[4] *See* TK Logan & Robert Walker, *Civil Protective Order Effectiveness: Justice or Just a Piece of Paper?*, 25 VIOLENCE & VICTIMS 332, 343 (2010) (finding that civil protective orders were associated with a decrease in abuse); Victoria L. Holt, Mary A. Kernic, Marsha E. Wolf & Frederick P. Rivara, *Do Protection Orders Affect the Likelihood of Future Partner Violence and Injury?*, 24 AM. J. PREVENTIVE MED. 16, 21 (2003) (concluding that civil protection orders are associated with a decreased likelihood of both physical and nonphysical abuse); Matthew J. Carlson, Susan D. Harris & George W. Holden, *Protective Orders and Domestic Violence: Risk Factors for Re-Abuse*, 14 J. FAM. VIOLENCE 205, 219–20 (1999) (finding that civil protective orders were associated with a decrease in police contact). *But see* Judith McFarlane, Ann Malecha, Julia Gist, Kathy Watson, Elizabeth Batten, Iva Hall & Sheila Smith, *Protection Orders and Intimate Partner Violence: An 18-Month Study of 150 Black, Hispanic, and White Women*, 94 AM. J. PUB. HEALTH 613, 616 (2004) (finding a similar reduction in threats of violence regardless of whether the applicant received a protection order); Stefanie Knowlton, *Are Restraining Orders False Security?*, USA TODAY (Sept. 7, 2014, 8:18 PM), https://www.usatoday.com/story/news/nation/2014/09/07/domestic-violence-deaths-raise-questions-about-gaps/15260841/ (quoting an employee of a victim assistance division who said, "For some people [getting a restraining order is] more dangerous. Sometimes it makes people really angry . . . .").

[5] Because nuances of restraining order law vary by state, this Article uses Connecticut (where its empirical analysis was conducted) as its reference point, and general references to application procedures or the effects of orders refer to Connecticut law. Still, there are many similarities in laws and procedures across states, and we believe that much of this Article's analysis is widely applicable beyond Connecticut.

[6] *See, e.g.*, Application for Relief from Abuse, JD-FM-223 (Rev. 1-18), available in the Web Appendix (allowing applicants in Connecticut to check off boxes to request common forms of relief or write in requests for custom forms of relief).

on the respondent,[7] with a judge considering a longer-term order at a future hearing with both parties.[8] Violating a restraining order is a criminal offense[9] in Connecticut, where our study took place, and is punishable by up to five years in prison.[10]

To obtain effective protection, however, an applicant must first surpass several legal and logistical hurdles. Chief among these hurdles is service: an order must be served on the respondent before courts can hold further hearings or law enforcement can enforce the ex parte order.[11] Victims of domestic violence "cite failure to accomplish service of process" as one of the main reasons they fail to follow through on their restraining order cases.[12] The drafters of the Violence Against Women Act recognized this problem, conditioning federal funding on states providing applicants financial assistance with service in protective order cases.[13]

These hurdles are compounded by the fact that the vast majority of applicants must navigate this process without the assistance of counsel: over 90% of applicants in our study were self-represented.[14] While states often provide funding to domestic violence nonprofits, such as the Connecticut Coalition Against Domestic Violence, such service providers handle tens of thousands of calls each year, are responsible for providing counseling and shelter, and may not have the expertise or the resources necessary to do hands-on advising about the legal process of obtaining or serving a restraining order.[15] This problem is not just a Connecticut problem—court

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[7] CONN. GEN. STAT. § 46b-15(b) (2019). Applicants technically do not have to ask for temporary ex parte relief and can just request a hearing order. However, though we did not keep a precise count, in our review of over one thousand TRO applications for this study, we observed that as a practical matter almost all applicants ask for this additional protection.

[8] *Id.* In Connecticut, TROs last for fourteen days or only up to seven days if the respondent possesses guns. This shorter timeline was part of a legislative compromise wherein respondents would be required to turn in their guns if served with a TRO but would have an expedited hearing schedule. *An Act Protecting Victims of Domestic Violence: Hearing on H.B. 5054 Before the Conn. Gen. Assembly S.*, Reg. Sess. 002124–25 (Conn. 2016) (statement of Sen. Kissel). Even if the judge denies the ex parte application, the applicant will almost always receive a hearing so she can argue for a longer-term restraining order, but she will not receive protection in the interim period. *See infra* Section II.B (discussing the four potential options a judge can order for a TRO application).

[9] CONN. GEN. STAT. § 53a-223b (2019).

[10] CONN. GEN. STAT. § 53a-35a (2019).

[11] *See infra* Section II.C (discussing service requirements for TRO applicants in Connecticut).

[12] Deborah Epstein, *Effective Intervention in Domestic Violence Cases: Rethinking the Roles of Prosecutors, Judges, and the Court System*, 11 YALE J.L. & FEMINISM 3, 12 n.51 (1999) (citing ADELE V. HARRELL, BARBARA SMITH & LISA C. NEWMARK, URB. INST., COURT PROCESSING AND THE EFFECTS OF RESTRAINING ORDERS FOR DOMESTIC VIOLENCE VICTIMS 30–32 (1993)).

[13] Violence Against Women Act, 34 U.S.C. § 10461(c)(1)(D); Epstein, *supra* note 12, at 12.

[14] *See infra* Part III.

[15] In 2016, the largely government-funded Connecticut Coalition Against Domestic Violence received 30,128 calls to its crisis hotline and counseled many of the people who called in. Its member organizations were active in running emergency shelters and providing counseling. It provided guidance for 29,005 victims related to family court matters, including filing for restraining orders. CONN. COAL. AGAINST DOMESTIC VIOLENCE, COLLECTIVE IMPACT: 2015–2016 ANNUAL REPORT 5 (2017), http://www.ctcadv.org/files/5414/8467/7396/2015-2016_annual_report_1.17.pdf.

systems all over the country struggle with how to give domestic violence victims the legal counseling they need to get a TRO, even as TROs have become the government's central tool for domestic violence prevention.[16]

One early solution to this under-staffing problem was to use law students in school-based domestic violence clinics as legal advocates for domestic violence victims.[17] The number of domestic violence-focused clinics has grown significantly over the years. There are now more than fifty such clinics,[18] and that number may continue to grow as law schools devote increased resources to experiential learning courses.[19] Most law school domestic violence clinics do more than simply help applicants receive TROs; they often help their clients more holistically by, for example, assisting with divorce and child custody actions, too.[20] Some evidence exists that these clinics, which provide individual attention and comprehensive services, reduce the rate of physical and psychological re-abuse.[21] Still, the effectiveness of student-run clinics in general has been brought into question in recent years. One prominent randomized field experiment found that an offer of legal assistance by a Harvard Law School clinic led to no differences in outcomes, but considerable delays in decisions.[22]

In this Article, we add to our understanding of the effectiveness of law student assistance by studying a unique non-clinic intervention in domestic

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[16] Margret E. Bell & Lisa A. Goodman, *Supporting Battered Women Involved with the Court System: An Evaluation of a Law School-Based Advocacy Intervention*, 7 VIOLENCE AGAINST WOMEN 1377, 1378–79 (2001).

[17] *Id.* at 1379.

[18] *Public Interest Clinics*, A.B.A. (July 9, 2020), https://www.americanbar.org/groups/center-pro-bono/resources/directory_of_law_school_public_interest_pro_bono_programs/definitions/pi_pi_clinics/.

[19] ABA Standard 303 requires all law students to take at least six credit-hours of experiential courses in order to graduate. AM. BAR ASS'N, ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 2018–2019, at 16 (2018), https://www.americanbar.org/content/dam/aba/publications/misc/legal_education/Standards/2018-2019ABAStandardsforApprovalofLawSchools/2018-2019-aba-standards-rules-approval-law-schools-final.pdf.

[20] *See, e.g.*, *Beshar/Lehner Gender Violence Clinic*, YALE L. SCH., https://law.yale.edu/studying-law-yale/clinical-and-experiential-learning/our-clinics/besharlehner-gender-violence-clinic (last visited Sept. 11, 2020) (explaining the clinic represents clients in civil and criminal matters); *Domestic Violence and Family Law Clinic*, HARV. L. SCH., https://hls.harvard.edu/dept/clinical/clinics/family-and-domestic-violence-law-clinic-lsc/ (last visited Sept. 11, 2020) (explaining the clinic assists clients with "divorce, domestic violence, paternity, child and spousal support, adoption, and guardianship").

[21] One small 2001 study with eighty-one low-income women in Washington, D.C., paired a group of participants with law students from Georgetown University or Catholic University of America law schools, supervised by faculty lawyers. The law students worked with those clients approximately six hours a week over six weeks. They assisted the clients with legal work, but also provided emotional support, referrals to community agencies, and help with safety planning. At the end of the study, only 5% of the study participants who worked with law students reported physical re-abuse, compared with 25% of the participants in the comparison group. Bell & Goodman, *supra* note 16, at 1385–94.

[22] D. James Greiner & Cassandra Wolos Pattanayak, *Randomized Evaluation in Legal Assistance: What Difference Does Representation (Offer and Actual Use) Make?*, 121 YALE L.J. 2118, 2118 (2012). *See generally* Jeanne Charn, *Celebrating the "Null" Finding: Evidence-Based Strategies for Improving Access to Legal Services*, 122 YALE L.J. 2206, 2220–22 (2013) (describing additional studies measuring the effect of legal representation in general on client outcomes).

violence cases. Yale Law School—although it also has a recently-founded, full-scale domestic violence clinic—has a long-standing program called the Yale TRO Project that takes a far more limited approach than traditional clinics do.[23] At its conception in the mid-1980s, the TRO Project originally assisted applicants throughout the entire TRO application process, including filling out the application paperwork, getting the order served on the respondent, and representing the applicants at their subsequent hearings.[24] Over time, however, the Yale TRO Project has scaled back its approach.[25] Students no longer engage in full representation, but rather now provide much more limited clerical assistance and share general information with applicants, only assisting up until the point that the order is served on the respondent.[26]

Today, TRO Project volunteers assist applicants from an office in the New Haven Superior Court. They guide them through filling out the various forms that make up the TRO application. Students escort applicants to the Clerk's Office, where the applications will be preliminarily processed. The students also inform applicants about the need to serve the judges' orders—whether the applicants received ex parte relief or not—and make follow-up calls to the applicants to remind them of the hearing to make sure that the orders are served promptly. The students do not attend the hearing with

[23] Each of the authors are former TRO Project volunteers: Ian Ayres was a volunteer in 1985–86 when the TRO Project still partnered with practicing lawyers to represent TRO applicants at their hearings. Brendan Costello was a volunteer from 2016–19 and a Director of the TRO Project from 2017–19. Elizabeth Villarreal was a volunteer in 2018.

[24] Gary Brown, Karin A. Keitel & Sandra E. Lundy, Comment, *Starting a TRO Project: Student Representation of Battered Women*, 96 YALE L.J. 1985, 1986–88 (1987). This model is still in place in New York City. Law students at local law firms and law schools partner with lawyers to represent clients through the entire TRO process. *See, e.g.*, Brenna Rabinowitz, *Funding for the Courtroom Advocates Project is Under Threat: Why it Matters*, SANCTUARY FOR FAMILIES, https://sanctuaryforfamilies.org/courtroom-advocates-project-under-threat (last visited Apr. 21, 2021) (noting that the program has trained and supervised over 12,000 advocates since 1997, mostly law students); *Courtroom Advocates Project Turns 20*, PATCH, https://patch.com/new-york/new-york-city/courtroom-advocates-project-turns-20 (last visited Apr. 21, 2021) (describing how lawyers take over client matters from law student volunteers if cases become contested); *Domestic Violence Advocacy Project*, NYU L., https://www.law.nyu.edu/studentorganizations/dvap (last visited Apr. 21, 2021) (listing the Courtroom Advocates Project as an NYU Law student group).

[25] Today, New Haven Legal Assistance Association attorneys help supervise the TRO Project Student Directors and train new volunteers. While they do not directly supervise the student interactions with each applicant, students are able to contact lawyers from New Haven Legal Assistance by phone if they need help with assisting an applicant. Lawyers are able to provide legal advice directly to applicants when necessary, and more complicated cases can be referred for possible representation by New Haven Legal Assistance lawyers or students in the full-scale clinic at Yale Law School that they supervise. Student Directors and volunteers also work closely with the Clerk's Office at the New Haven courthouse, which usually participates in the training of the student volunteers and provides guidance and directives involving the application process and courthouse operations.

[26] Note that the Superior Court Rules in the Connecticut Practice Book provide an explicit exception to its prohibition on unlicensed practice for "[p]roviding clerical assistance to another to complete a form provided by a court for the protection from abuse, harassment and violence when no fee is charged to do so." CONN. PRAC. BOOK R. SUP. CT. § 2-44A(b)(5) (2019). Further, the rules are careful to note that the prohibition will not limit "the ability of a person or entity to provide information of a general nature about the law and legal procedures to members of the public." *Id.* at § 2-44A(d).

applicants or help with any other legal challenges they might be facing.

The Yale TRO Project appears to be fairly unique in the domestic violence law school clinic space in its combination of limited scope of assistance and large-scale presence at the courthouse. In the fall of 2018, fifty-three students volunteered through the program, which is just under 10% of the Yale Law School student body.[27] Because of high volunteer turnover, a much larger percentage than that volunteer at some point during law school. In addition, the Yale TRO Project's work is complemented by volunteers from the nearby Quinnipiac Law School. The Quinnipiac students provide similarly limited services, but, because they receive fellowship funding, are fewer in number and commit to a larger number of volunteer hours each.[28]

The general ideas of limited representation and non-legal assistance are not unique, however, because both strategies can potentially offer assistance to more people at lower costs.[29] And there is an appetite for providing these programs in the domestic violence area: a new federal law even requires chief judges to host an event at least once a year to promote pro bono legal services for domestic violence, sexual assault, and stalking victims.[30] We ask how effective the Yale TRO Project's scaled-back intervention is and how the project's effectiveness might be improved.[31] To do so, we present an empirical study of TRO applications filed in the Judicial District of New Haven.[32] The New Haven Judicial District incorporates a diverse range of towns, including the City of New Haven, the third largest city in Connecticut, and several smaller, wealthier suburbs. The study analyzed over one thousand applications from a period of a little over a year, from

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[27] Data provided by the TRO Project student board.

[28] *Fellowship Program*, YALE SAPPERN MEM'L FUND, http://yalesappern.info/sappern-fellowship-program/ (last visited Sept. 12, 2020).

[29] *See generally* James G. Mandilk, Note, *Attorney for the Day: Measuring the Efficacy of In-Court Limited-Scope Representation*, 127 YALE L.J. 1828, 1834–40 (2018) (surveying the rise of limited-scope representation).

[30] Pro Bono Work to Empower and Represent Act of 2018, Pub. L. No. 115-237, § 3(a), 132 Stat. 2447, 2448 (2018) ("[T]he chief judge . . . for each judicial district shall lead not less than one public event . . . promoting pro bono legal services as a critical way in which to empower survivors of domestic violence, dating violence, sexual assault, and stalking and engage citizens in assisting those survivors.").

[31] In undertaking this study, we are building on an existing body of writing on the TRO Project and TROs in New Haven generally, including by former TRO project volunteers. *See generally* Brown et al., *supra* note 24; Gary Richard Brown, *Battered Women and the Temporary Restraining Order*, 10 WOMEN'S RTS. L. REP. 261 (1988); Molly Chaudhuri & Kathleen Daly, *Do Restraining Orders Help? Battered Women's Experience with Male Violence and Legal Process*, *in* DOMESTIC VIOLENCE: THE CHANGING CRIMINAL JUSTICE RESPONSE 245 (Eve S. Buzawa & Carl G. Buzawa eds., Auburn House 1992); and Ming-Yee Lin, Domestic Violence Restraining Orders: Procedural Challenges in New Haven (Spring 2013) (unpublished manuscript).

[32] The Judicial District of New Haven is made up of about half of the towns in New Haven County and includes the towns of Bethany, Branford, Cheshire, East Haven, Guilford, Hamden, Madison, Meriden, New Haven, North Branford, North Haven, Wallingford, and Woodbridge. *See* CONN. JUD. BRANCH STATS./REPS., TOWNS WITHIN JUDICIAL DISTRICTS AND GEOGRAPHICAL AREAS, https://www.jud.ct.gov/statistics/JD_GA.pdf (last visited Oct. 2, 2020).

September 2017 until January 2019. Our observational study emulates a randomized experiment, as we show that applicants in our dataset who were "treated" with Yale assistance are observationally similar to control-group applicants who did not receive such assistance.

We find that applicants assisted by law students are no more or less likely to receive ex parte TROs than other applicants. However, we see substantial evidence that applicants assisted by Yale law students systematically reported more information in their TRO applications, including the presence of various "severity factors" in their affidavits. This may suggest a sorting effect: increased information disclosure may allow courts to better distinguish between meritorious applications and those that fall below the legal standard, even as overall grant rates remain constant.[33] Most importantly, we find that assistance from Yale students is associated with a double-digit increase in the probability that an order is subsequently served in-hand. Because TROs are not effective until served, we can conclude that student assistance is associated with an increased likelihood of a pro se applicant receiving effective TRO protection.

In addition to student assistance, our analysis reveals insights about the granting and service of TROs more generally. We find, for example, that socioeconomic variables are important predictors of TRO outcomes. Gender is an important factor in TRO grants—applicants filing against men are most likely to be granted ex parte relief—but gender did not affect service rates. On the other hand, race is one of the strongest predictors of successful service—white applicants receive much higher in-hand service than applicants of other races—but race does not appear to affect grant rates. We also discover significant variation in the TRO grant rate across judges, even when controlling for differences in the applications the judges review. Finally, we identify certain "severity factors" that seem to matter in TRO grants: police involvement, weapon use, and hospitalization.

Overall, our study reveals that significant hurdles remain for pro se applicants attempting to obtain the protection of restraining orders. Using our evaluation of the Yale TRO Project, we suggest ways that student assistance—and limited scope legal interventions generally—can be improved. This analysis may be particularly important in the age of COVID-19, where, despite reported increases in domestic violence,[34]

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[33] *See* Lin, *supra* note 31 (making a similar sorting argument).

[34] *See* Babina Gosangi, Hyesun Park, Richard Thomas, Rasul Gujrathi, Camden P. Bay, Ali Raja, Steven E. Seltzer, Marta Chadwick Balcom, Meghan L. McDonald, Dennis P. Orgill, Mitchel B. Harris, Giles W. Boland, Kathryn Rexrode & Bharti Khurana, *Exacerbation of Physical Intimate Partner Violence During COVID-19 Pandemic*, 298 RADIOLOGY E38 (2021), https://pubs.rsna.org/doi/pdf/10.1148/radiol.2020202866 (reporting higher incidence and severity of physical intimate partner violence during the COVID-19 pandemic than the prior three years); Jesse Leavenworth, *Connecticut Police See An Increase in Domestic Violence Calls During Coronavirus Stay-at-Home Orders*, HARTFORD COURANT (Apr. 14, 2020, 6:00 AM), https://www.courant.com/news/connecticut/hc-news-coronavirus-domestic-

restrictions on in-person contact and courthouse availability may hamper traditional assistance methods[35] and call for a reevaluation of what effective domestic violence assistance looks like.

Our results also underscore the stark reality of TRO service: over one-third of ex parte TROs and hearing orders are never served at all. We suggest several ways to reform the service process, including carrot-and-stick incentives for greater in-hand service and a belt-and-suspenders approach that utilizes some combination of certified mail and cell phone service. Finally, we propose the creation of a website that applicants—and their agents, including perhaps law students—can monitor in real time to ensure service and assist in safety planning.

The remainder of this Article proceeds as follows. In Part I, we describe the problem of domestic violence, both in Connecticut and nationally, and discuss how TROs came to be one of the leading methods for combatting it. In Part II, we detail the TRO application process in New Haven, Connecticut. Part III gives our methodology, and Part IV presents our results. Finally, in Part V, we evaluate the efficacy of clerical assistance programs for domestic violence victims and discuss possible reforms to the TRO process.

I. BACKGROUND ON THE PROBLEM OF DOMESTIC VIOLENCE AND TROS AS A RESPONSE

Domestic violence is a significant problem in the United States. Between 2003 and 2012, domestic or family violence made up 21% of all violent crime.[36] Approximately one in four women and one in seven men report experiencing at least one incident of severe physical violence from their partners in their lifetime.[37] Intimate partner violence alone, not counting other kinds of domestic violence, costs $5.8 billion dollars each year in direct medical care and lost productivity.[38]

Under Connecticut law, TROs are available to family or household members who have been "subjected to a continuous threat of present physical

violence-20200414-d2tl4yxuunahlmziqi5a6zxpre-story.html (reporting a rise in domestic violence-related calls to the Hartford Police Department, the Connecticut State Police, and other state agencies).

[35] *See, e.g.*, Robert V. Wolf, *In Practice: Courts Respond as COVID-19 Fuels Rise in Domestic Violence*, CTR. FOR CT. INNOVATION (Apr. 2020), https://www.courtinnovation.org/publications/courts-covid-dv (describing various jurisdictions' approaches to providing domestic violence legal services during the pandemic).

[36] BUREAU OF JUST. STATS., U.S. DEP'T OF JUST., NCJ 244697, NONFATAL DOMESTIC VIOLENCE 2003–2012, at 1 fig.1 (2014), https://www.bjs.gov/content/pub/pdf/ndv0312.pdf.

[37] Matthew J. Breiding, Sharon G. Smith, Kathleen C. Basile, Mikel L. Walters, Jieru Chen & Melissa T. Merrick, *Prevalence and Characteristics of Sexual Violence, Stalking, and Intimate Partner Violence Victimization – National Intimate Partner and Sexual Violence Survey, United States, 2011*, 63 MORBIDITY & MORTALITY WKLY. REP. 9–10 (2014), https://www.cdc.gov/mmwr/pdf/ss/ss6308.pdf.

[38] NAT'L CTR. FOR INJ. PREVENTION & CONTROL, U.S. DEP'T OF HEALTH & HUM. SERVS., COSTS OF INTIMATE PARTNER VIOLENCE AGAINST WOMEN IN THE UNITED STATES 2 (2003), https://www.cdc.gov/violenceprevention/pdf/IPVBook-a.pdf.

pain or physical injury, stalking or a pattern of threatening . . . ." [39] Family or household members are statutorily defined as spouses or former spouses, parents, children, other relatives, roommates, parents of a child in common, or someone with whom the victim has a current or former dating relationship.[40]

TROs are not the only type of order available to abuse victims, but they are the most accessible.[41] Applicants in Connecticut, since 2015, have the option to apply for a civil protective order, which can be ordered against people who do not fit into the "family violence" categories.[42] However, they are only available to victims of sexual abuse or stalking, not other types of abuse.[43] In addition, criminal courts can issue criminal protective orders to protect victims during criminal proceedings and after convictions.[44]

Notably, Connecticut's family violence definition is broader than traditional definitions of intimate partner violence—which are limited to people in romantic or sexual relationships—and includes any kind of violence in the home between related or even merely cohabitating people.[45] Despite the broader "family violence" context that TROs are meant to address, many people still think of TROs as being primarily for intimate partner violence victims—or in more dated parlance, "battered women." The Yale TRO Project, for example, when originally founded in 1984, was called the "Yale TRO Project for Battered Women."[46] An article written by some of its early volunteers had to reassure readers that "[b]attering of men by women does exist, although its frequency is difficult to measure."[47]

This framing is understandable; women were and still are at a disproportionate risk of violence. According to the CDC's National Intimate Partner and Sexual Violence Survey, 25.1% of women in the United States—about thirty million—have "experienced contact sexual violence, physical violence, and/or stalking by an intimate partner" that was severe enough to impact their life in some way, including being concerned for their safety, needing legal or medical services, contacting law enforcement, or missing

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[39] CONN. GEN. STAT. § 46b-15(a) (2019); *see also* JD-FM-137, available in the Web Appendix. Note that in general, verbal abuse is not considered "family violence" in Connecticut unless it represents a likely threat of physical violence. CONN. GEN. STAT. § 46b-15(a) (2019).

[40] *Id.* § 46b-38a(2); *see also* JD-FM-137, available in the Web Appendix.

[41] *See id.* §§ 46b-16a, 46b-38c, 53a-40e (authorizing civil protective orders and criminal protective orders).

[42] *Id.* § 46b-16a(a).

[43] *Id.*

[44] *Id.* §§ 46b-38c, 53a-40e(a). The offender still must be related to the victim or a member of her household, and, since the orders are made by a criminal judge, the state must be pursuing a criminal case against the offender.

[45] The CDC defines intimate partner violence as "physical violence, sexual violence, stalking, or psychological harm by a current or former partner or spouse." *Intimate Partner Violence*, CTRS. FOR DISEASE CONTROL & PREVENTION, https://www.cdc.gov/violenceprevention/intimatepartnerviolence/index.html (last visited Sept. 5, 2020).

[46] Brown et al., *supra* note 24, at 1985.

[47] *Id.* at 1985 n.2.

work.[48] That compares to about 10.9% of men, or 12.1 million, who reported a similar experience.[49] In Connecticut in 2016, twelve people were killed as a result of intimate partner violence—eleven women and one man.[50] Three were from the New Haven area.[51]

Despite this historical framing of "family violence" as a women's issue, the general public seems increasingly aware that TROs are available to people in diverse gendered pairings and relationship types. In our study, although a woman in a current or former relationship with the respondent was the single most common demographic profile for applicants, male applicants accounted for 26.4% of all the TRO applications filed.[52] TRO applicants were roommates or family members of the respondent—and not in a current or former intimate relationship—35% of the time.[53] Applicants ranged from one to ninety-one years old.[54]

On first impression, the existence of TROs as a widespread violence prevention technique can seem puzzling in that TROs appear merely to forbid respondents from engaging in activity that is already criminalized.[55] For the women's rights advocates who originally pushed for widespread access to TROs, this prophylactic protection was necessary given the country's enmeshed patriarchal values and de facto acceptance of domestic violence.[56] For much of American history, spousal abuse was unindictable.[57] Police officers, like others in the justice system, often believed that families deserved privacy from government interference, even at the expense of an abused wife and children.[58] Later, even police officers who were theoretically willing to involve themselves in domestic violence cases sometimes hesitated to arrest abusive spouses because they knew domestic violence victims sometimes ended up unwilling or unable to go through with a lengthy criminal process.[59] Connecticut's original TRO statute was passed

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[48] NAT'L CTR. FOR INJ. PREVENTION & CONTROL, CTRS. FOR DISEASE CONTROL & PREVENTION, NATIONAL INTIMATE PARTNER AND SEXUAL VIOLENCE SURVEY: 2015 DATA BRIEF – UPDATED RELEASE 7–8 (2018), https://www.cdc.gov/violenceprevention/pdf/2015data-brief508.pdf.

[49] *Id.* at 9. For this reason, this Article sometimes uses female pronouns when referring to applicants, although we are aware that people of any gender experience family violence, and people who do not identify as female may face unique barriers to accessing courts and other services.

[50] CONN. COAL. AGAINST DOMESTIC VIOLENCE, 2017–2018 REPORT OF THE CONNECTICUT DOMESTIC VIOLENCE FATALITY REVIEW TASK FORCE 3 (2018), http://www.ctcadv.org/files/3615/3926/6889/2017-2018_DVFR_report_10.18.pdf.

[51] *Id.*

[52] See full summary statistics in the Web Appendix at Figure A1.

[53] *Id.*

[54] *Id.*

[55] Of course, restraining orders may also prohibit respondents from having contact with applicants and criminal violation of a restraining order could result in steeper criminal punishment than the underlying crime would otherwise result in.

[56] Elizabeth M. Schneider, *The Violence of Privacy*, 23 CONN. L. REV. 973, 983–84 (1991).

[57] Brown, *supra* note 31, at 262.

[58] Schneider, *supra* note 56, at 985.

[59] Brown, *supra* note 31, at 263.

in 1981, five years after Pennsylvania became the first state to pass one.[60] There are now thousands of arrests relating to family violence a year. In 2017, 16,662 family violence incidents, involving 14,983 victims and 13,846 offenders, were reported in the state.[61]

Connecticut's TRO statute has been amended several times since the 1980s, including in 2016, when the legislature passed a law requiring gun owners to give up their guns within twenty-four hours of being served with a TRO in a case involving use, attempted use, or threatened use of physical force.[62] Before that amendment, gun owners were only required to turn over their guns after the TRO was finalized into a restraining order at a hearing.[63] Because gun ownership is generally protected by the Second Amendment, Connecticut legislators felt that people who had their guns removed from them ex parte were entitled to a faster opportunity to be heard.[64] Before 2016, all hearings were scheduled within fourteen days of an application being filed.[65] Since 2016, cases where the application indicates that a respondent has guns have their hearings scheduled within seven days.[66]

II. OVERVIEW OF THE TRO APPLICATION PROCESS AND MAJOR HURDLES FOR PRO SE APPLICANTS

Applying for a TRO is a multi-step process that can take applicants hours, or even days, to complete. For the purposes of this paper, we have divided the process of applying for a TRO in New Haven into four steps: (1) accessing the court system and writing the TRO application; (2) filing the TRO and receiving a decision; (3) contacting a state marshal and getting the TRO served on the respondent; and (4) attending the hearing.[67]

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[60] *Id.* at 261; 35 PA. STAT. AND CONS. STAT. ANN. §§ 10182–90 (West 2020) (repealed 1990).

[61] DORA B. SCHRIRO, CONN. DEP'T OF EMERGENCY SERVS. & PUB. PROT., CONNECTICUT FAMILY VIOLENCE 2017 ARREST REPORT 1 (2018).

[62] An Act Protecting Victims of Domestic Violence, Pub. L. No. 16-34, sec. 7, § 29-36k(b), 2016 Conn. Acts 257, 264 (Reg. Sess.). Failing to do so could result in a felony charge for criminal possession of a firearm under state law. CONN. GEN. STAT. § 53a-217(a)(4).

[63] Mark Pazniokas, *House Conservatives Lose Battle to Block Domestic Violence Law*, CT MIRROR (Apr. 28, 2016), https://ctmirror.org/2016/04/28/house-conservatives-lose-battle-to-block-domestic-violence-law/.

[64] *An Act Protecting Victims of Domestic Violence: Hearing on H.B. 5054 Before the Conn. Gen. Assembly S.*, Reg. Sess. 002124–25 (Conn. 2016) (statement of Sen. Kissel).

[65] CONN. GEN. STAT. § 46b-15(b) (2020) (amended by An Act Protecting Victims of Domestic Violence, Pub. L. No. 16-34, 2016 Conn. Acts 257, 258–59 (Reg. Session)).

[66] *Id.*

[67] We describe the procedures as they were at the time of data collection. Some procedures have been temporarily updated in response to the COVID-19 pandemic. *See Procedure for the Remote Filing of Temporary Restraining Orders and Civil Protection Orders*, CONN. JUD. BRANCH, https://jud.ct.gov/remote_restrain.htm (last visited Apr. 21, 2021) (providing information on how to file a TRO remotely).

A. *Accessing the Court System and Writing the TRO Application*

Applicants come to the New Haven courthouse to apply for a TRO in a variety of ways. Anecdotally, applicants seem to commonly hear about TROs through word of mouth, from a domestic violence organization,[68] through online research,[69] and through police recommendations.[70] Only a small minority are represented by counsel.[71] Once at the courthouse, applicants are sent by the Clerk's Office front desk employees to the Yale or Quinnipiac offices for assistance filling out the TRO application paperwork—if the offices are open.[72] On days that both offices are open, clients sort themselves between the offices, usually depending on whether one office is busy or not.[73] If the offices are not open, applicants will receive only minimal assistance from the Clerk's Office. Some applicants, especially if they cannot write in English, will receive some assistance from the Court Service Center, primarily in the form of translation and transcription.[74]

When applying for a TRO, there are at least three forms every applicant must fill out.[75] The overarching goal of these forms is to collect enough information to evaluate whether the applicant meets the statutory requirement for issuing a TRO, namely that there is "an immediate and

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[68] For example, applicants may have heard about TROs from one of the CCADV's eighteen member organizations, who, collectively, counseled 29,005 victims on family court matters including whether to obtain a TRO. CONN. COAL. AGAINST DOMESTIC VIOLENCE, *supra* note 15, at 4–5.

[69] The website CTLawHelp, with content produced by Connecticut Legal Services, Greater Hartford Legal Aid, New Haven Legal Assistance Association, and Statewide Legal Services of Connecticut, gives detailed instructions for how to obtain a TRO in Connecticut. *How to Apply for a Restraining Order*, CTLAWHELP (May 2020), https://ctlawhelp.org/en/restraining-protective-order. The Connecticut Judicial Branch Law Libraries also contains a comprehensive web page with links to the relevant statutes, reports, application instructions, and even self-help videos. *Connecticut Law About Domestic Violence*, CONN. JUD. BRANCH L. LIBRS., https://www.jud.ct.gov/lawlib/Law/domesticviolence.htm (last visited Mar. 20, 2021).

[70] During the coding process, the authors came across many applications where the applicant referenced that the police had advised them that they should seek a TRO.

[71] In our study, we coded only 6.3% as likely represented by lawyers. *See* Web Appendix Table A1.

[72] It is possible that some applicants come fully prepared with forms already filled out and are able to file without any use of the Yale or Quinnipiac office even on days that they are open, but our conversations and experiences with the Clerk's Office suggests that they generally still request that these pro se applicants visit one of these offices to check over their forms before filing.

[73] The offices are both on the fifth floor of the courthouse. The Quinnipiac office appears directly in front of the elevators, and a small sign on a nearby board announces that the Yale office is down the hall. Because Quinnipiac also assists with divorces, they also could see different types of applicants who are more likely to be getting divorced from their partner. We address concerns that applicants might be non-randomly sorting themselves into the Yale office *infra* Part IV.

[74] "Court Service Centers provide services for self-represented parties, members of the bar, and the community at large. They are located within Judicial District Courthouses and are staffed by Judicial Branch employees trained to assist all court patrons. Several Court Service Centers have bilingual staff." *Court Service Centers*, CONN. JUD. BRANCH, https://www.jud.ct.gov/CSC/ (last visited Aug. 30, 2020).

[75] *See Family Forms: Filing an Application for a Restraining Order*, CONN. JUD. BRANCH, https://www.jud.ct.gov/forms/grouped/family/restraining_order.htm (last visited Aug. 30, 2020) (listing the forms needed to file for a TRO).

present physical danger to the applicant."[76] First, applicants must complete Form 137, which collects various pieces of demographic information about the respondent and applicant, including the type of relationship between the two and if they have any minor children that the applicant also wants protected.[77] Form 137 also asks the applicant whether the parties have a history of family court actions or previous restraining orders, if the respondent possesses any guns, and what protection the applicant wants.[78]

After supplying this basic information, the applicant must also complete Form 138, which asks the applicant to write an affidavit that describes in her own words why she believes she is in "immediate and present physical danger."[79] This is a particularly important part of the application process, and one on which the law student volunteers focus a large part of their time, while avoiding unauthorized practice of law. Unlike attorneys, students in the Yale TRO office do not write affidavits for applicants, nor do they dictate any portion or advise applicants whether or not to include particular aspects of their stories. Students do, however, invite applicants to tell their stories orally and are active listeners—asking questions when something seems vague, unclear, or confusing. By doing so, students provide a dry-run for applicants to tell their stories in their own words and to remember details that may be helpful when they eventually write—on their own—the text of their affidavits.

Students also provide general information on what is useful for applicants to include in their affidavits and relay advice that judges have asked them to pass on. For example, judges in New Haven have emphasized to law student volunteers that applicants should write their affidavits in reverse chronological order and include specific dates and exact quotes.[80] Those suggestions are not listed on the affidavit form, which asks the applicant to "include a statement of the conditions you seek relief from," and to explain "(1) what happened, (2) when it happened, (3) where it happened, and (4) who was there when it happened."[81]

Third, applicants fill out a State Marshal Commission Protection Order Service Respondent Profile Form, which tells the state marshals, who will be charged with serving the eventual TRO or hearing order to the respondent, information about the respondent's address, respondent's appearance, and

[76] CONN. GEN. STAT. § 46b-15(b) (2019).

[77] See form in the Web Appendix.

[78] See form in the Web Appendix. Applicants have the option of describing custom protection that they want, but the form also suggests pre-drafted orders such as: "The Respondent not assault, threaten, abuse, harass, follow, interfere with, or stalk me."; "The Respondent stay away from my home or wherever I shall reside."; and "The Respondent not contact me in any manner, including by written, electronic or telephone contact, and not contact my home, workplace or others with whom the contact would be likely to cause annoyance or alarm to me."

[79] See form in the Web Appendix.

[80] Lin, *supra* note 31, at 4.

[81] See form in the Web Appendix.

places where he can be commonly found.[82] Marshals in Connecticut are independent contractors and sworn peace officers who serve civil processes, perform evictions, and sometimes execute capias warrants.[83]

Some applicants, depending on their preferences and circumstances, also fill out a Request for Nondisclosure of Location Information (if the applicant does not wish to have her address known to the respondent), an Affidavit Concerning Children (which collects information about children and is generally used when the applicant is seeking temporary custody of children), and a Supplemental Affidavit and Request for Orders of Maintenance (if the applicant and respondent are married or they live together along with a dependent child and the applicant wants additional relief such as ongoing financial support or the return of personal effects).[84] Applicants assisted by Yale volunteers also fill out a waiver and additional clerical forms for TRO Project recordkeeping and follow-up.

B. *Filing the TRO and Receiving a Decision*

After the applicant has finished filling out the TRO application paperwork, she will bring her completed forms to the Clerk's Office where a staff member will check that the forms have been completed correctly and have the applicant swear an oath attesting that all of the statements made in the application are true to the best of the applicant's knowledge. The staff member will then send the applicant to wait either outside the Clerk's Office or near the courtrooms.

While the applicant is waiting, the clerk will pull records related to any prior family court matters, including previous restraining orders. The clerk (or a student volunteer) will then take the completed application and any related court files to a family court judge. The particular judge assigned to hear the application rotates according to a pre-assigned schedule, in which a different judge is on call each week. The judge will review the application soon after she receives it, often during a break in other proceedings. A clerk will then approach the applicant, explain to her the judge's decision, and direct her back to the Clerk's Office to pick up a final version of the judge's

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[82] *See Family Forms: Filing an Application for a Restraining Order*, CONN. JUD. BRANCH, https://www.jud.ct.gov/forms/grouped/family/restraining_order.htm (last visited Aug. 30, 2020) (linking to Restraining Order Service Instructions, SMC-1, Rev. 10-15 and Restraining Order Service Respondent Profile, SMC-2, Rev. 10-15).

[83] *Marshal Commission, State*, CONN. ST. DEP'T ADMIN. SERVS., https://portal.ct.gov/DAS/Communications/Connecticut-State-Marshal-Commission/FAQ (last visited Sept. 30, 2020). Capias warrants are civil bench warrants issued for failure to appear. CONN. GEN. STAT. § 54-2a (2019). Note that these marshals are distinct from the court marshals who provide security in the courthouse.

[84] *See Family Forms: Filing an Application for a Restraining Order*, CONN. JUD. BRANCH, https://www.jud.ct.gov/forms/grouped/family/restraining_order.htm (last visited Aug. 30, 2020) (linking Affidavit Concerning Children, JD-FM-164 and Supplemental Affidavit and Request for Order of Maintenance, JD-FM-233); Request for Nondisclosure of Location Information, JD-FM-188, available at https://www.jud.ct.gov/webforms/forms/FM188.pdf.

order. The Clerk's Office will type and finalize the judge's order and enter the information into the computer system.

The judge completely denies TRO applications extremely rarely, which we anecdotally saw in cases where the applicant asks for a TRO against someone who does not fall into the categories necessary for the allegations to constitute "family violence."[85] Instead, the judge will either grant or deny the ex parte temporary relief and, in almost all cases, schedule a follow-up hearing to decide whether the court should grant an order that can last for up to a year. The hearing must be scheduled within seven days if the applicant alleges that the respondent owns a gun or within fourteen days in all other cases.[86] Therefore, the possible options the judge can order based on the application forms are: (1) deny all requests for relief; (2) grant ex parte relief pending a hearing in seven days; (3) grant ex parte relief pending a hearing in fourteen days; or (4) deny ex parte relief but schedule a hearing in fourteen days.[87]

Depending on a number of factors—including the complexity of the application, how busy the Clerk's Office is, and whether the judge is on a lunch break when she receives the application—the entire process up until this point of an initial judicial decision can take several hours. If the applicant starts the process too late in the day for the judge to review it, or the applicant has to leave before the clerk can give her the order, she may have to return to the courthouse the following day to pick up the judge's order.

C. *Contacting a State Marshal and Getting the TRO Served on the Respondent*

Once the applicant has picked up the order from the Clerk's Office, she is responsible for giving the order to a state marshal so it can be served on the respondent within three days of the hearing.[88] The requirement that orders be served on the respondent ensures that the respondent receives sufficient notice of the hearing to contest any court orders, and preserves his

[85] In our study, only about one percent of applications were outright denied. *See* Web Appendix Table A1. Our understanding is that this general policy of judges against outright denials stems at least in part from the 2015 case of *Wendy V. v. Santiago*, 125 A.3d 983 (Conn. 2015). Although the Connecticut Supreme Court ultimately dismissed the appeal as moot, a footnote in the opinion noted that the court was "perplexed as to why the trial court did not allow a hearing" on a TRO application "[g]iven the clear statutory directive that a hearing 'shall' occur." *Id.* at 987 n.8.

[86] CONN. GEN. STAT. § 46b-15(b) (2019).

[87] *Id.* § 46b-15(b)–(c).

[88] The restraining order statute commands that "[t]he applicant shall cause notice of the hearing . . . and a copy of the application and the applicant's affidavit and of any ex parte order . . . to be served on the respondent not less than three days before the hearing." CONN. GEN. STAT. § 46b-15(h)(1) (2019). Some have questioned whether it makes sense for applicants to be "burdened with the responsibility of getting a state marshal to serve [the orders]." Jeffrey Tebbs & Erika Tindill, *Abusers Must Be Put on Notice*, HARTFORD COURANT (Aug. 16, 2009).

constitutional rights.[89] Restraining orders can require a respondent to vacate a shared home or restrict his movement, impinging on property or liberty interests protected under the Fourteenth Amendment.[90] More generally, service also serves the function of ensuring that the court has personal jurisdiction over the respondent.[91] In addition, service of an ex parte order is crucial for it to have any bite: a key element of criminal violation of a restraining order is that the defendant has "knowledge of the terms of the order."[92] Essentially, restraining orders are not effective until they are served on the respondent.

In Part IV, we engage with the constitutional boundaries of effective service and consider whether various alternative methods of service for TROs would be permissible. Here, we describe how service is currently prescribed and accomplished in Connecticut. Precisely what service is adequate for restraining orders in Connecticut, however, is a complicated question. The restraining order statute is silent on the method of service except in two very limited circumstances. When an ex parte order is issued and the applicant alleges that the respondent has a firearm, "the proper officer responsible for executing service shall, whenever possible, provide in-hand service . . . ."[93] In cases for which the applicant is seeking extension of an existing order and the respondent did not appear on the initial application, "service of a motion to extend an order may be made by first-class mail directed to the respondent at the respondent's last-known address."[94]

Other than these two narrow exceptions, service is governed by Connecticut's general statute for civil service of process: "Except as otherwise provided, process in any civil action shall be served by leaving a true and attested copy of it, including the declaration or complaint, with the defendant, or at his usual place of abode, in this state."[95] The text of the statute, therefore, implies that either in-hand or abode service should be sufficient to satisfy the applicant's obligations.

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[89] *See* Nadine Taub, *Ex Parte Proceedings in Domestic Violence Situations: Alternative Frameworks for Constitutional Scrutiny*, 9 HOFSTRA L. REV. 95, 127 (1980) (describing the equality, dignity, and participation values underlying traditional notice requirements for court proceedings).

[90] U.S. CONST. amend. XIV, § 1; Taub, *supra* note 89, at 128.

[91] *See* 1 DUPONT ON CONNECTICUT CIVIL PRACTICE § 8-1.2 (Matthew Bender rev. ed. 2020) ("The purpose served by a summons is not merely to provide notice to the defendant or respondent, but is also to establish the court's jurisdiction over the person of the defendant as well."); CONN. GEN. STAT. § 52-59b(a) (2019) (defining personal jurisdiction over nonresident individuals, foreign partnerships, and foreign voluntary associations per Connecticut practice).

[92] CONN. GEN. STAT. § 53a-223b(a) (2019).

[93] *Id.* § 46b-15(h)(2).

[94] *Id.* § 46b-15(g).

[95] *Id*. § 52-57(a). Similarly, "[t]he service of a writ of summons shall be made by the officer reading it and the complaint accompanying it in the hearing of the defendant or by leaving an attested copy thereof with him or at his usual place of abode." *Id.* § 52-54. Note the additional requirement that "[w]hen service is made by leaving an attested copy at the defendant's usual place of abode, the officer making service shall note in his return the address at which such attested copy was left." *Id.*

However, there is good reason to question whether abode service is sufficient for applicants to obtain protection as a practical matter. A leading treatise on Connecticut Civil Practice notes that while abode service is occurring "[w]ith increasing frequency" in a wide range of civil matters, "a round of dilatory pleadings is often commenced challenging abode service."[96] In certain cases, such as when the recipient lives in an apartment complex, "it is relatively easy to make a claim that [the service statute] was not followed."[97] Courts have thus engaged with highly fact-specific questions of when abode service was done in a satisfactory manner; service in a common apartment hallway, for example, has been considered to be insufficient.[98] Still, an officer's return is presumed correct, so the defendant has the burden of proving that service was insufficient.[99] These service issues are unique to abode service;[100] in-hand service "stills all argument."[101]

There is good reason to believe that these on-the-ground difficulties with abode service in general extend to the specific case of TROs. A 2015 report commissioned by the Connecticut legislature found that judges often dismiss cases in which only abode service was accomplished, and prosecutors may decline to bring charges for violating restraining orders where the respondent was not served in-hand.[102] Even the legislature appears unclear about what level of service is required for TROs. During floor debate in 2016, multiple state senators made comments expressing their confusion and concern about the issue.[103] Clearly there is good reason to believe that in-hand service, as

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[96] 1 DUPONT ON CONNECTICUT CIVIL PRACTICE, *supra* note 91, at § 8-1.24.

[97] *Id.*

[98] *Id.*

[99] *Id.*

[100] This is true at least relative to in-hand service. Abode service, as an example of actual service, may still be harder to challenge than constructive service (such as mail) because the defendant bears the burden in actual service cases. *Id.*

[101] *Id.*

[102] TASK FORCE TO STUDY SERVICE OF RESTRAINING ORDERS: FINDINGS AND RECOMMENDATIONS 9–10 (2015) ("[T]he task force heard testimony that most judges in practice require orders to be in-hand, and more importantly, prosecutors will not go forward on a violation of restraining order case where there hasn't been in-hand service or proof of service.").

[103] See the following excerpts from floor debate:

> Senator Kissel: "My first question is, I just want to clarify, when the order, the initial temporary restraining order is served, does the bill before us allow both in-hand service and abode service?" . . .
>
> Senator Coleman: "The bill contemplates in-hand service."
>
> . . .
>
> Senator Frantz: "[O]f particular concern is if I'm reading the bill correctly, a TRO can be served without actually physically seeing that person and handing it to this person. It can be dropped off at the doorstep. It can be dropped off in a mailbox. That doesn't strike me as a very good system. Can you give the circle some assurance that a person who, as Senator Kissel says might be out of the country on a business

it currently stands, provides applicants the best chance to obtain practical protection, but abode service is frequently accepted as a sufficient basis. During our coding process, we found that a large number of the respondents served at their abodes came to the hearing. In these cases, judges may look for evidence that abode service led to *timely* actual notice or will ask respondents if they will waive proper service, to which respondents often agree.[104]

Service is free for TRO applicants; the State of Connecticut pays marshals on a per-application basis when service is effected.[105] If the applicant received ex parte relief, and the respondent has not received effective service three days before the scheduled hearing, she can file a Request for Additional Time for Service form with the court.[106] Although judges are available to rule on TRO applications during business hours, marshals keep much more limited hours. An individual marshal is assigned on a rotating schedule to wait for applicants in the hallway outside the Clerk's Office from 12:30 p.m. to 1:00 p.m. and 4:30 p.m. to 5:00 p.m. daily.[107] That means that applicants may have to wait for several hours after they have received a TRO for the marshal to arrive at his assigned shift. Once the applicant locates the marshal, she hands him the Protection Order Service Respondent Profile form, which lists information about the

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> trip for a week is after 24 hours of not receiving this now essentially a criminal because he hasn't turned his guns in, or her guns in."
>
> Senator Coleman: "I thank the good Senator for the question, and I think Senator Kissel posed a similar question. I'm not sure that I responded completely accurately. May the Chamber stand at ease for one moment."
>
> Senator Coleman: "I am informed that in-hand service is preferred but abode service is permitted in this bill, so I correct myself, and I apologize to Senator Kissel because I think my response to his question was a little different than what is actually the case."
>
> . . .
>
> Senator Fasano: "[C]ould the Senator describe for me whether or not that order would be by the [sic] this bill proposed in hand or abode[?]" . . .
>
> Senator Coleman: "[T]he service of the order would be preferred to be, strongly preferred to be in hand, but in both services also permissible."

An Act Protecting Victims of Domestic Violence, Hearing on H.B. 5054 Before the Conn. Gen. Assembly S., Reg. Sess. 00217–18, 002131–32, 002173–74 (Conn. 2016).

[104] Interview with Judge Erika M. Tindill, Conn. Super. Ct., in New Haven, Conn. (Apr. 23, 2019).

[105] CONN. GEN. STAT. §§ 6-32, 52-261 (2019).

[106] Request for Additional Time for Service of Ex Parte Restraining Order, JD-FM-256, available at https://jud.ct.gov/webforms/forms/FM256.pdf; *see also* CONN. GEN. STAT. § 46b-15(c) (2019) ("If the court issues an ex parte order pursuant to subsection (b) of this section and service has not been made on the respondent in conformance with subsection (h) of this section, upon request of the applicant, the court shall, based on the information contained in the original application, extend any ex parte order for an additional period not to exceed fourteen days from the originally scheduled hearing date.").

[107] CONN. JUD. BRANCH, NEW HAVEN SUPERIOR COURT GUIDE (2009), https://www.jud.ct.gov/Publications/es213.pdf.

respondent, his location, and frequent whereabouts.[108] Sometimes, the marshal will ask the applicant for additional information about the respondent and help her fill in incomplete sections of the form.

Marshals are regulated by the State Marshal Commission, an executive, not judicial, branch of the Connecticut government.[109] Marshals are independent contractors,[110] not state employees. As such, they set their own hours and charge separately for every order served, with oversight from a State Marshal Commission.[111] Serving TROs is a requirement for marshals,[112] and fairly dissimilar to many of their other job functions. Normally, marshals maintain their own offices and work to develop relationships with private lawyers who will hire them for other service jobs. TROs are delivered for a statutory fee of no more than $60 paid by the Judicial Branch,[113] and work is distributed equally to all marshals.

The Clerk's Office does not have a record of which marshal is attempting to serve which TRO until and unless a return of service is reported by a marshal.[114] Likewise, although applicants usually hand the TRO to the marshal in person, they may not be told or remember which marshal is working on serving their order. It is the responsibility of the applicant to ask for the marshal's name and contact information if she wants to follow up about service,[115] something many applicants do not know to do. Marshals are not obligated to tell applicants when they have served the order, and without calling the marshals' cell phones to ask, applicants may not know when the TROs have gone into effect. For this reason, one of the key benefits of legal assistance to applicants is monitoring the process to ensure that service is properly accomplished. A leading treatise notes that "[c]lose cooperation with the sheriff or other authority responsible for effecting service mandates that the lawyer or a skilled legal assistant monitor the file and make any necessary follow-up phone calls to [e]nsure that process has been served."[116]

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[108] *See Family Forms: Filing an Application for a Restraining Order*, CONN. JUD. BRANCH, https://www.jud.ct.gov/forms/grouped/family/restraining_order.htm (last visited Aug. 30, 2020) (linking to Restraining Order Service Instructions, SMC-1, Rev. 10-15 and Restraining Order Service Respondent Profile, SMC-2, Rev. 10-15).

[109] *Marshal Commission, State*, CONN. STATE DEP'T ADMIN. SERVS., https://portal.ct.gov/DAS/Communications/Connecticut-State-Marshal-Commission (last visited Mar. 21, 2021).

[110] CONN. GEN. STAT. § 6-38a (2019).

[111] *See generally* CONN. GEN. STAT. § 6-38b (2019).

[112] CONN. GEN. STAT. § 6-38b(f) (2019).

[113] *See* CONN. GEN. STAT. §§ 6-32, 52-261 (2019). Marshals may also receive mileage for one trip only. *See* TASK FORCE TO STUDY SERVICE OF RESTRAINING ORDERS, *supra* note 102. *See also* CONN. SUPERIOR CT., HOW TO APPLY FOR A RESTRAINING ORDER UNDER SECTION 46B-15, JD-FM-247, https://www.jud.ct.gov/Publications/FM259.pdf (last visited Mar. 21, 2021) (indicating the Judicial Branch pays for the delivery fee).

[114] *See* Tebbs & Tindill, *supra* note 88 (observing that the system "leaves the Judicial Branch unaware of whether victims have retained a state marshal to serve the order").

[115] CONN. SUPERIOR CT., *supra* note 113.

[116] 1 DUPONT ON CONNECTICUT CIVIL PRACTICE, *supra* note 91, at § 8-1.22.

The Yale TRO Office, but not the office staffed by Quinnipiac law students, puts considerable volunteer effort into calling applicants and reminding them to contact the marshal who has their TRO to ensure that service is completed. If the applicant did not get the name of the marshal who has her TRO, the volunteers will try to figure out the marshal's name by checking the marshal assignment calendar, although the calendar sometimes has errors. Yale volunteers used to communicate with marshals directly[117] but stopped doing so some time after 2013, which we understand to have been driven at least in part by some push-back from the marshals relating to student involvement in their work.

D. *Attending the Hearing*

On the day of the hearing, the applicant and respondent are each required to meet with a Family Relations Counselor from the Court Support Services Division prior to the hearing.[118] The counselor separately interviews the applicant and respondent about any existing court orders, whether they possess a firearm or have a permit to do so, the history of the relationship, and any children they have in common.[119] If possible, the counselor will attempt to broker a written agreement between the parties that would avoid the need for a hearing.[120] The applicant and respondent are not forced to be in the same room with each other before the hearing.[121]

At the end of the meeting, if the applicant and respondent have not reached an agreement, they attend the hearing in front of a family court judge. There, the applicant has the opportunity to explain to the judge why she believes she meets the standard necessary to receive a restraining order: that she has been "subjected to a continuous threat of physical pain or physical injury . . . by another family or household member . . . ."[122] While hearings are somewhat informal and procedures may vary, in general the applicant and respondent will testify before the judge and the court may review evidence or hear from other witnesses. At the end of the hearing, the court decides, in its discretion, regardless of whether the applicant received an ex parte TRO, if she should receive a restraining order for a period of up to a year.[123] The judge also decides what conditions should be part of the restraining order, including some child custody decisions.[124]

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[117] Lin, *supra* note 31, at 10.

[118] *Domestic Violence (Family Violence): Frequently Asked Questions*, CONN. JUD. BRANCH, https://www.jud.ct.gov/faq/DomViolence.htm#22 (last visited Mar. 21, 2021).

[119] STATE OF CONN. SUP. CT., RESTRAINING ORDERS: HOW TO APPLY FOR RELIEF FROM ABUSE, JDP-FM-142 (rev. Oct. 2016), https://www.jud.ct.gov/Publications/fm142.pdf.

[120] *Domestic Violence (Family Violence): Frequently Asked Questions*, CONN. JUD. BRANCH, https://www.jud.ct.gov/faq/DomViolence.htm#22 (last visited Mar. 21, 2021).

[121] *Id.*

[122] CONN. GEN. STAT. § 46b-15(a) (2019).

[123] *Id.* § 46b-15(g) (2019).

[124] *Id.* § 46b-15(b) (2019).

As described above, proper service is a requirement for the court to have jurisdiction over the respondent.[125] If the respondent was not served and does not know about the hearing, or was improperly served and does not waive the service requirement, the applicant will have to go back and try again to get service. On the request of an applicant who received an ex parte order, the court will provide a limited extension (in any case no more than 14 days) of the ex parte order while she attempts service again.[126]

III. DATA AND METHODOLOGY

In this Part, we describe our study's methodology.[127] We analyzed 1,273 files,[128] which was a little over a year's worth of all of the TRO applications filed in the New Haven Superior Court from 2017 to January 2019. We chose our sample size to ensure that we had sufficient statistical power to be able to detect an effect of Yale treatment on our main outcome of interest: in-hand service.[129]

From the restraining order application form,[130] we recorded (1) the applicant and respondent's respective date of birth,[131] sex,[132] and race; (2) whether there was previously a protective or restraining order involving either the applicant or the respondent; (3) whether the applicant and respondent have a previous or pending divorce, custody, or visitation action; (4) whether the applicant wants the TRO to also protect her minor children;[133]

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[125] "The applicant shall cause notice of the hearing pursuant to subsection (b) of this section and a copy of the application and the applicant's affidavit and of any ex parte order issued pursuant to subsection (b) of this section to be served on the respondent not less than three days before the hearing." *Id.* § 46b-15(h)(1) (2019).

[126] *Id.* § 46b-15(c).

[127] More specific information about our methodology can be found in the coding guide in the Web Appendix.

[128] Of these 1,273, we were not able to locate twenty-nine of the files in the courthouse file room, so they were excluded from our study.

[129] We chose 80% power and p=.05 as thresholds, leaving a question of how small an effect size we wanted to ensure that we had power to detect. To get a sense of what portions of applicants were Yale treated and how large we might expect any effect to be, we performed a smaller high-level sample of one year's worth of applications, which indicated that 13% of applicants were Yale-treated and we might expect a difference of in-hand service rates of around 11%. Therefore, power tests suggested that we would need 1,273 observations to find an 11% effect at p = .05 with 80% power.

[130] *See* Form JD-FM-137, available in the Web Appendix.

[131] We ultimately decided to drop respondent birthdates/ages from our analysis for several reasons. First, applicants often (greater than 10% of the time) did not report a birthdate for the respondent at all and in multiple other cases only wrote down an age range or a birth year. In addition to the missing values, this caused us to question the accuracy of the applicant-reported respondent birthdates for even that subset for which we had usable data. This weighed in favor of excluding the variable, especially when considering the possibility that including a respondent's age (in addition to an applicant's age) would make it relatively easier to identify the subjects in certain cases.

[132] The form asked about "sex," not gender identity, and suggested male and female as the only available options. Because of this limitation, our study adopts the same dichotomy.

[133] The application form asks the applicant whether she knows about any previous orders involving either her or the respondent. Regardless of her answer, the Clerk's Office staff will also check for previous orders in their internal computer system and add in any missing information that they find before giving the file to the judge.

(5) whether the applicant is seeking temporary custody or visitation orders; (6) whether the applicant is seeking additional orders that are not described by the form's list of pre-drafted orders,[134] and (7) whether the respondent is eligible to possess a gun, or in fact does possess a gun or ammunition. All questions are presumably mandatory for the applicant, except the question about gun possession, which is explicitly described as optional.

From the application form, we also recorded the relationship between the applicant and respondent. The application form lists ten possible relationship categories covered by the statute and asks the applicant to check off all that apply. We generally recorded the relationship categories as the applicant wrote them, but, during analysis, grouped these relationship descriptors into the exclusive categories of "intimate," "non-intimate family member," or "non-intimate, non-family member that resides together."[135] Outside of that process, we created a separate dummy variable for whether the applicant reported residing with the respondent.

The second major component of the TRO application is the affidavit form, which asks applicants to describe in their own words why they qualify for a TRO. We read each affidavit and coded for the following five factors: (1) Did the victim go the hospital as a result of what happened?; (2) Were the police involved as a result of what happened?; (3) Did the applicant allege that the respondent uses illegal drugs?; (4) Was a weapon used or present during the incident?; and (5) Did the applicant allege that the respondent sexually assaulted the applicant or the applicant's minor children?[136] During our analysis, we summed the total number of factors in each affidavit to produce a rough "severity" measure.

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[134] For example, an applicant might ask for the respondent to refrain from talking about her publicly on social media or for the respondent not to contact the applicant's housemates.

[135] All but three of the cases in our sample with reported relationships fell neatly into these categories; one application against a probation officer and two applications against a caretaker were treated as missing for the remainder of our analysis.

[136] The vast majority of this coding was personally performed by two authors of this study (Costello & Villarreal), as follows. Initially, these two authors coded just under one quarter of the cases collaboratively. For the remaining cases, the two authors split up, and each coded approximately half of the remaining cases (one author independently coded about 38% of the total applications and 42% of the total affidavits and the other author independently coded about 34% and 32%, respectively). Around this same time, the authors worked on a coding guide, reproduced in the Web Appendix, which attempted to memorialize and standardize coding practices as the authors coded independently. In addition to the two authors, two additional coders coded an extremely small fraction of the applications (~3%) and affidavits (~1%). As one limited check on how much variability might exist in the coding of these cases, we also had a fifth coder code a sample of about 10% of the cases already coded by the primary coders. Back-of-the-envelope comparisons using that sample and the affidavit factors (which we would expect to vary the most across coders) suggest that the new coder agreed with the primary coders over 90% of the time on hospitalization, whether drugs were involved, and whether there was a sexual assault, while raw agreement on police involvement and weapon use were somewhat lower, at 79.7% and 87.5% respectively. We acknowledge that the use of multiple coders, along with our methods for dividing and analyzing the same, are limitations of our study. Future studies could improve on our methodology by creating more specific *ex ante* coding criteria, especially for police involvement and weapon use, and by analyzing intercoder reliability, including using more sophisticated tests of agreement, across the primary coders themselves.

From elsewhere in the file, we recorded which judge decided whether to grant ex parte relief and whether the applicant was assisted by a lawyer.

We next coded for the types of the assistance applicants received and the outcomes of their applications, which are summarized in Figure 1.[137]

FIGURE 1: SELECTED SUMMARY STATISTICS

VARIABLES	N	MEAN
Treatment		
Likely Represented by Attorney	1243	0.063
Assisted by Yale	1273	0.131
Likely Assisted by Quinnipiac	1273	0.571
Order Outcomes		
Fourteen-Day Order	1273	0.509
Hearing Order	1273	0.397
Seven-Day Order	1273	0.082
Order Denied	1273	0.013
Service Outcomes		
In-Hand	1246	0.362
Abode	1246	0.241
No Service	1246	0.221
Not Picked Up	1246	0.096
Unable to Serve	1246	0.053
Miscellaneous Served	1246	0.015
Served to Others	1246	0.013

We see that 6.3% of applicants in our sample were assisted by an attorney, implying that over 90% of applicants were pro se. The case file did not have sufficient information to consistently convey whether someone had a lawyer while they were filing the application. A small number of applicants submitted affidavits printed on law firm letterhead. More often, lawyers did not appear in the paperwork until a court clerk noted that they attended the hearing or there was an attorney appearance filed. We recorded anyone who had a lawyer at the hearing as having a lawyer through the process, although some applicants may have only hired a lawyer after filing their applications pro se. Indeed, in at least a few instances, an applicant went to the Yale TRO Project office for assistance without a lawyer and then had a lawyer by the

[137] Web Appendix Figure A1 presents additional summary statistics.

hearing date, either because they obtained a lawyer after visiting the TRO Project office, or because they used the TRO Project office in place of their attorney to draft the TRO application, for cost or strategic reasons.[138]

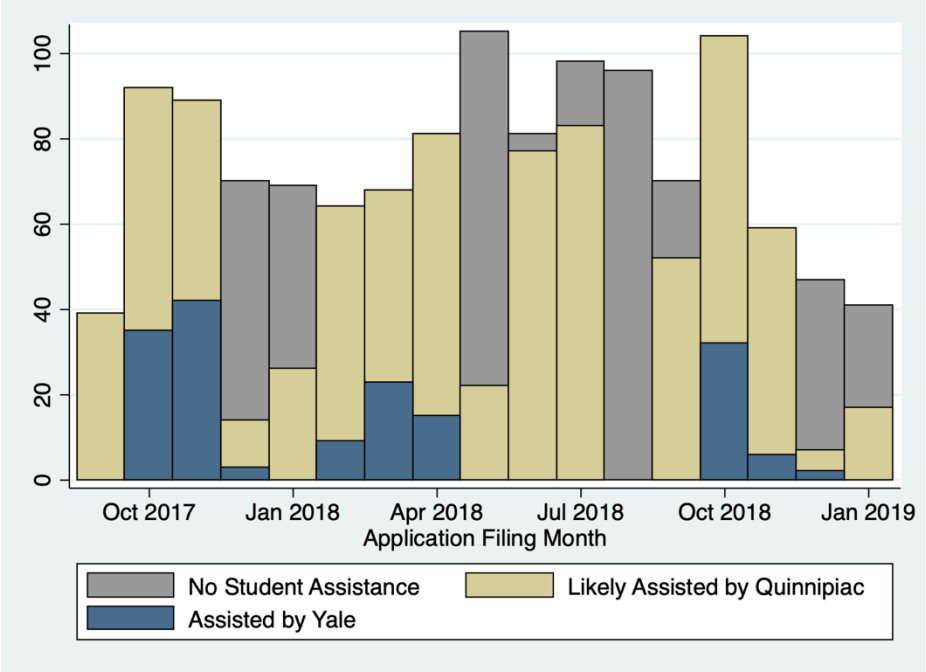
Finally, from records maintained by the Yale TRO Project, we recorded which applicants were assisted by Yale law students. Although Quinnipiac law student volunteers do not keep a record of who they assist, we used a copy of their schedule and the Yale TRO Project records to construct a "likely assisted by Quinnipiac" variable. Based on discussions with the Clerk's Office, we assumed that anyone who was not assisted by Yale students on a day that the Quinnipiac students' office was open was probably assisted by Quinnipiac students.[139] Over two-thirds of applicants received some form of student assistance: 13.1% were assisted by Yale students and another 57.1% were likely assisted by Quinnipiac students. Both offices are closed for at least a portion of summer- and winter-academic breaks. Therefore, Figure 2 presents a histogram of various treatments by filing month that shows clear seasonality in student assistance.[140]

[138] It is possible, although we think unlikely, that someone had a lawyer to fill out the application but not at the hearing. In general, because we sometimes observed an applicant receiving both student and attorney assistance, we generally did not treat attorney assistance and student assistance as mutually exclusive. Still, we emphasize that attorney involvement occurred very rarely (6.3% of the time) in our dataset.

[139] We believe this is appropriate because Clerks Office staff explained to us that they will send pro se applicants to the Quinnipiac students' office for assistance if the Yale TRO Project office is not open. It is possible, of course, that this codes some applicants as assisted by Quinnipiac who do not actually receive Quinnipiac assistance. In that case, assuming Quinnipiac treatment had a positive effect relative to pro se applicants, our analysis would tend to underestimate the true Quinnipiac treatment effect. Note further, as explained earlier, because student assistance and attorney assistance are not mutually exclusive, we coded non-Yale applicants on days that Quinnipiac as open as likely assisted by Quinnipiac regardless of whether we also found evidence of attorney involvement in a case.

[140] In unreported version of the main regression results that follow, we experimented with using monthly fixed effects to capture any seasonal effects on the granting and service of restraining orders. We find no evidence of such seasonal effects: an F-test rejects joint significance of the monthly fixed effects on both primary outcomes (granting and in-hand service). Of course, filing months are correlated with the seasonal timing of student treatment, particularly so as the "Likely Quinnipiac" treatment variable is a deterministic function of the application date and the absence of Yale treatment. In the extreme, as shown in Figure 2, for eight months in our sample, every applicant that was not assisted by Yale was coded as likely assisted by Quinnipiac (with zero non-treated applicants). Obviously, within these months there is effectively perfect collinearity between the mutually exclusive Yale and Quinnipiac treatments, and within-month treatment effects cannot be estimated. We accordingly chose to exclude the fixed effects from the reported regressions to foreclose any collinearity or interpretation concerns. Note that when we retained monthly fixed effects, the Yale treatment was significant on in-hand service when regressed alongside either the Quinnipiac control or the monthly fixed effects, but not both.

FIGURE 2: LAW STUDENT ASSISTANCE BY MONTH



About 60% of applicants were granted ex parte relief: 50.9% received ex parte relief and a hearing order in fourteen days; 8.2% received ex parte relief and a hearing order in seven days. Almost all of the remaining applicants did not receive any ex parte relief but still received an order for a hearing to discuss the matter further in fourteen days (39.7%). While Yale-treated applicants had no differences, on average, in their overall grant rate, they had slightly higher rates of seven-day orders and slightly lower rates of fourteen-day orders, likely a result of the increased use of the optional gun questions by Yale-treated applicants.[141] Only 1.3% of applicants had their application completely denied. Web Appendix Figure A2(a) shows a relatively stable grant rate with a slight increase at the end of the sample period.[142]

Overall, service of ex parte orders and hearing orders was poor. Only 36.2% of all orders (including fourteen-day, seven-day, and hearing order only) were delivered in-hand; [143] 24.1% were "abode served," meaning the

[141] See Web Appendix Figure A3 for comparisons of Yale-treated applicants to other applicants and associated statistical tests.

[142] We believe this is because of a change in staffing in the judges that shifted the overall grant rate for the court.

[143] Web Appendix Figure A2(b) shows that the in-hand service rate over time is relatively stable, with a slight and gradual dip and recovery throughout 2018.

order was left at the respondent's home address. Of the remaining served orders, 1.3% were served to others, like a family member or a guardian, and 1.5% were some other kind of miscellaneous service, like certified mail.

Nearly 40% of orders were not served in any manner. A small percentage (5.3%) of the time, the marshal reported back that he was unable to serve the order. Another 9.6% of the time, the applicant did not pick up the paperwork at the Clerk's Office after it was signed by the judge and therefore never gave the order to the marshal. This could either be because the applicant could not wait for the judge to rule on the application and never came back (the process can take hours), or because the applicant changed her mind about going through with the restraining order process. We find that applicants are more likely to pick up their orders if they are granted ex parte protection than if they are granted a hearing order only,[144] likely because applicants who know that they are being given a hearing order only and no ex parte protection (perhaps because the judge's clerk told them of the outcome) may not want to serve the order without the protection of an ex parte order.

In nearly one-quarter (22.1%) of the cases, the order was picked up but had no return of service nor a notation that a marshal tried but was unable to serve the order. This could be because these orders were picked up by the applicant but never given to the marshal. As with orders that were not picked up, the applicant may have changed her mind about going through with the restraining order process, especially if only a hearing order was granted. Or some orders may not be given to marshals because of logistical challenges, driven by the fact that the burden of providing the orders to the marshals falls on the applicants and the marshals are only in the courthouse for limited times. Finally, some orders may have been given to a marshal, but the marshal never served the order and never reported back that he was unable to serve the order. Our inability to differentiate between these reasons for lack of service is itself a limitation of Connecticut's service and data collection systems, and the system should be reformed in order to better understand why these orders were not served.[145]

IV. RESULTS

In this Part, we present the main results from our study: multivariate regression analysis for ex parte order grants and various service outcomes, respectively. We conclude this Part by addressing the robustness of our results to endogeneity concerns by employing an instrumental variables approach.

A. *Ex Parte Order Grants*

In this section, we present the results of multivariate regression that

[144] Web Appendix Figure A9 reports regressions where the outcome is whether an order was picked up or not.

[145] *See also* Tebbs & Tindill, *supra* note 88.

controls for other application-level variables.[146] Figure 3 presents the results of our ordinary least squares (OLS) models, where the dependent variable (outcome) in each column is whether or not an applicant was granted ex parte relief (either seven- or fourteen-day).[147] Hearing orders and denials of applications are both coded as granted=0. Column 1 starts with treatments, where attorney appears to be the only significant treatment. Column 2 adds demographics, Column 3 adds data from the application forms, Column 4 adds coded factors from the affidavit, and Column 5 adds judge-fixed effects. The applicant's age is not significant,[148] and neither is race.[149] Grant rates are twenty-nine to thirty-two percentage points higher for female, rather than male, applicants, and particularly so when they are filing against men. Pairwise tests suggest that the gender effects are driven primarily by the gender of the respondent. Filing against men is associated with higher grant rates than filing against women, and this effect is indistinguishable between male and female applicants.

[146] We noted during our coding process that some applicants applied for TROs multiple times during our study. Some applicants applied against multiple respondents individually. Others were unhappy with the outcome of their first application and applied a second time seeking a different result against the same respondent. Because the outcomes of these orders are likely correlated in unobservable ways, we clustered our regression standard errors at the level of applicant (using applicant birthdate-gender-race combinations as proxies for applicant identity).

[147] While our outcome is binary, we choose to use ordinary least squares instead of a binary choice model like logit or probit. We do not seek to interpret or use predicted probabilities from our OLS models (so the [0,1] bounding issue is not particularly salient), and we later use two-stage least squares, making OLS estimates easier to compare with our instrumental variables estimates. For an explanation of the harmlessness of using linear probability models, see generally JOSHUA D. ANGRIST & JÖRN-STEFFEN PISCHKE, MOSTLY HARMLESS ECONOMETRICS: AN EMPIRICIST'S COMPANION 94–107, 197–205 (2009). In Web Appendix Figure A11 we present, for robustness, logit models with marginal effects for our main models. Similarly, logit coefficients were used to construct our Web Widget.

[148] Web Appendix Figure A2C presents a non-parametric regression visualizing the grant rate by age, which suggests that there may be especially low grant rates for minors but fairly level grant rates for adults.

[149] The Web Appendix presents the full versions of our models in which we modeled various combinations of applicant and respondent races. The application form simply asks applicants to report a "race" for themselves and for the respondent in an empty box. Many applicants wrote "Hispanic" or "Latino." Therefore, we treated "Hispanic" as its own exclusive category separate from "Black" and "white," and the latter categories may therefore best be interpreted as non-Hispanic White and non-Hispanic Black (or at least applicants who self-identified as White or Black but did not report whether they were Hispanic). These three categories made up the vast majority (~95%) of our dataset. To preserve statistical power, we generally combined other responses into a category which we termed "other race."

FIGURE 3: EX PARTE RELIEF GRANT REGRESSIONS

	(1)	(2) Add	(3) Add	(4) Add	(5) Add
VARIABLES	Treatments	Demographics	Application	Factors	Judges
Assisted by Yale	-0.036	-0.035	-0.025	-0.042	-0.019
	(0.046)	(0.045)	(0.046)	(0.046)	(0.045)
Likely Assisted by Quinnipiac	-0.040	-0.021	-0.028	-0.031	-0.016
	(0.032)	(0.031)	(0.032)	(0.032)	(0.031)
Attorney	0.248***	0.208***	0.233***	0.217***	0.192***
	(0.048)	(0.049)	(0.054)	(0.055)	(0.054)
Female Applicant		0.320***	0.321***	0.292***	0.288***
		(0.038)	(0.039)	(0.038)	(0.037)
Same Sex		0.233***	0.249***	0.227***	0.208***
		(0.065)	(0.068)	(0.067)	(0.066)
Same Sex * Female Applicant		-0.491***	-0.481***	-0.462***	-0.445***
		(0.079)	(0.080)	(0.077)	(0.077)
Family member			-0.091	-0.104*	-0.104**
			(0.055)	(0.054)	(0.053)
Roommate			-0.132***	-0.109**	-0.116**
			(0.050)	(0.048)	(0.047)
Related Case			-0.127***	-0.109***	-0.103***
			(0.038)	(0.037)	(0.036)
Victim went to the hospital				0.138***	0.140***
				(0.049)	(0.048)
Police were involved				0.144***	0.147***
				(0.028)	(0.027)
Respondent used a weapon				0.211***	0.199***
				(0.040)	(0.039)
Judge 2					-0.105***
					(0.036)
Judge 3					-0.241***
					(0.038)
Judge 4					-0.104***
					(0.040)
Judge 6					-0.253***
					(0.072)
Other Judge					-0.370***
					(0.116)
Observations	1,243	1,203	1,182	1,182	1,182
R-squared	0.016	0.096	0.122	0.176	0.209

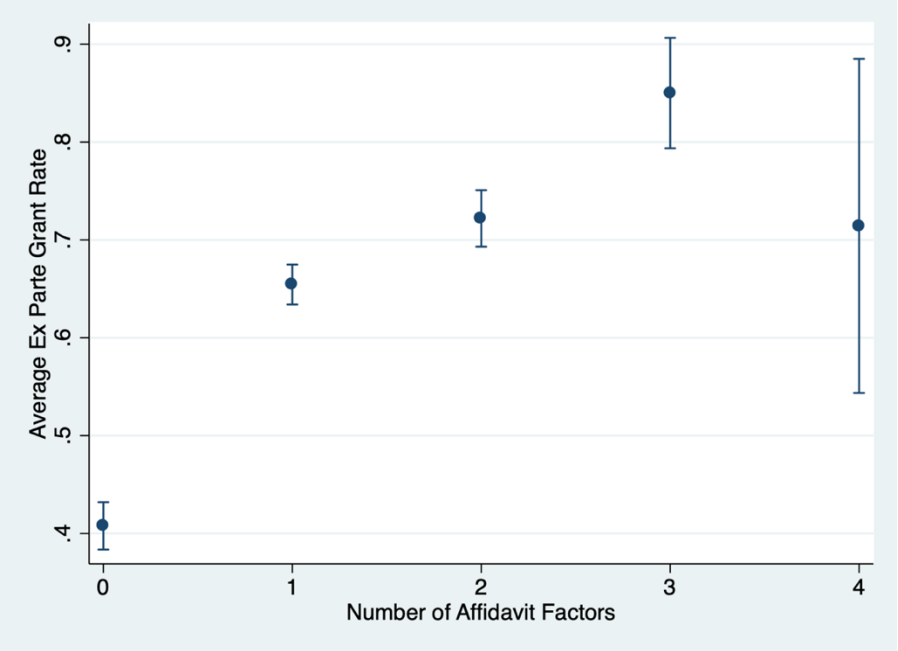
* Linear probability models; outcome=1 if 7 or 14-day ex parte order is granted, 0 if a hearing order only is ordered or the application is denied. Only treatments and statistically significant controls reported (see Web Appendix for full table). Standard errors (in parentheses) are clustered by the applicant's birthdate-sex-race. *** p<0.01, ** p<0.05, * p<0.1

Applicants filing against non-intimate partner non-family members (i.e., roommates) are less likely to get ex parte relief relative to those filing against intimate partners.[150] Applicants who report a related court case are less likely to get ex parte relief. Reporting that the respondent caused someone to seek treatment at a hospital, that the police were involved, or that the respondent had a weapon are associated with higher grant rates, but we do not see any effects from reporting drugs or sexual assault (although we have limited power for the latter as it is rarely reported). Web Appendix Figure A6 presents the same results except replaces the specific factors from Columns 4 and 5 with dummies for the number of total factors in each affidavit. Results remain qualitatively similar, and each number of factors is associated with a higher grant rate relative to zero factors.[151] Figure 4 visually shows the grant rates by each number of total factors (raw averages, not conditional on other variables). We clearly see the importance of reporting these factors: the grant rate for those who report even one factor is over twenty percentage points higher than that of those who report none.

[150] More specifically, this difference is significant relative to intimate partners who do not live together. The difference between roommates and intimate partners who live together is not statistically significant. Family members who do not live together are also less likely to receive orders than intimate partners who do not live together. The Web Appendix reports the full versions of this and other figures which model various combinations of relationships and residential status and allow for more flexible hypothesis testing.

[151] We see some evidence of diminishing marginal returns to additional factors (but note that very few applicants reported three or especially four factors).

FIGURE 4: GRANT RATE BY NUMBER OF AFFIDAVIT FACTORS



* Grant rates are collapsed by the number of factors present in each application affidavit (hospital, police, drugs, weapon, and sexual assault). Standard error bars presented.

Judges are jointly significant as predictors of grant rates. However, each judge has a negative coefficient relative to Judge 1, and all but one is significant at $p<0.01$.[152]

B. *Service Outcomes*

Figure 5 presents similar models as Figure 3,[153] but the dependent variable is now whether an order (ex parte TRO or hearing order only) is served in-hand. The dependent variable equals zero in other cases of service

[152] Web Appendix Figure A4 presents cross-tabulations of the grant rate by individual judges. Judge grant rates vary from 45% to 70% at the extremes, which are both significantly different from mean (59%); judges in the middle are not significantly different from each other. We would expect judge caseloads to be fairly similar due to quasi-random assignment (by weekly shifts), suggesting that these differences are due to different baseline judge grant rates. Note that we group several very rarely appearing judges together in an "other judges" category, which has an even lower grant rate of 29%, but only a scant seven observations. In one case we could not identify the judge assigned, which we initially coded as its own dummy variable (Judge 9) but did not ultimately include this variable in our analysis as it was only associated with one observation.

[153] Unlike Figure 4, Figure 5 stops at Column 4. We do not expect judges to have any direct effect on service outcomes (and we do not see any in simple tests of joint significance), and we further argue judges should satisfy an exclusion restriction in the next section. *See* discussion *infra* Section IV.C.

(abode, served on others, or miscellaneous) and in cases of no service.[154] Both Attorney and Yale treatments are significant on the rate of in-hand service. The Yale treatments are estimated to increase the likelihood of in-hand service between eleven and thirteen percentage points, remaining quite stable as controls are added, while the attorney treatment is estimated to be between a twenty-two and twenty-eight percentage-point enhancement. In subsequent columns, we now also include a dummy for whether the order was granted ex parte relief. We see that ex parte orders (as compared to hearing orders) are associated with higher in-hand service rates. We also see significant racial differences: Black, Hispanic, and other applicants tend to receive less in-hand service relative to white applicants.[155] Applicants that report previous orders are less likely to get in-hand service,[156] while those who request temporary custody are more likely to get in-hand service. Applicants who request non-standard relief in the blank box are more likely to get in-hand service, which might be a general measure of "grit" for applicants determined to get a particular kind of relief.

[154] For the small fraction (1%) of cases that were denied, the service outcome is coded missing, as there was nothing to serve.

[155] Simple cross-tabulations show that white applicants receive in-hand service 48% of the time compared with 31%, 34%, and 24% for Black, Hispanic, and other race applicants, respectively. Again, the flexible nature of our models (as shown in the Web Appendix) allows us to more closely analyze various race combinations and incorporate various controls. More specifically, our results suggest that people who are Black, Hispanic, or another race (and are filing against a person of their same race) have significantly lower rates of in-hand service relative to a white person filing against another white person. This finding is particularly important given that the majority (77%) of applicants in our sample are filing against someone of their own race. Digging further, we see somewhat mixed results when trying to separate any effect of the applicant's race from any effect of the respondent's race, though we caution that many race combinations are relatively rare in our sample which limits our statistical power to detect differences. At a minimum, we cannot conclude that these differences are driven purely by the race of the respondent, as we see evidence that white applicants have significantly higher in-hand service rates when filing against Black or Hispanic respondents relative to Black or Hispanic applicants filing against someone of their own race. At the same time, though, we also tested whether white applicants had higher rates of in-hand service against other race respondents (relative to other race applicants) and whether Black and Hispanic applicants had lower rates of in-hand service against white respondents than white applicants, without observing any statistically significant differences. We do observe that other race applicants have lower rates of in-hand service against white respondents relative to white applicants.

[156] This might indicate a sort of path dependency, where those with previous orders are more likely to have external service difficulties that cause them to apply multiple times.

FIGURE 5: IN-HAND SERVICE REGRESSIONS

VARIABLES	(1) Treatments	(2) Add Demographics	(3) Add Application	(4) Add Factors
Assisted by Yale	0.119***	0.129***	0.115**	0.112**
	(0.046)	(0.046)	(0.048)	(0.048)
Likely Assisted by Quinnipiac	-0.003	0.000	0.002	0.001
	(0.031)	(0.031)	(0.031)	(0.031)
Attorney	0.284***	0.220***	0.222***	0.220***
	(0.055)	(0.058)	(0.058)	(0.058)
Ex Parte Granted		0.197***	0.200***	0.186***
		(0.030)	(0.030)	(0.031)
Applicant Age		-0.007*	-0.005	-0.005
		(0.004)	(0.004)	(0.004)
Applicant Age Squared		0.000*	0.000	0.000
		(0.000)	(0.000)	(0.000)
Black Applicant		-0.137***	-0.139***	-0.146***
		(0.037)	(0.037)	(0.037)
Hispanic Applicant		-0.105**	-0.102**	-0.104**
		(0.041)	(0.042)	(0.042)
Other Race Applicant		-0.253***	-0.247***	-0.245***
		(0.068)	(0.069)	(0.070)
Different Race * Other Race Respondent		-0.175*	-0.164	-0.169
		(0.106)	(0.109)	(0.110)
Applicant reported previous court orders			-0.077**	-0.085***
			(0.031)	(0.030)
Request for temporary custody			0.091**	0.092**
			(0.040)	(0.040)
Request for other orders			0.069**	0.070**
			(0.034)	(0.034)
Police were involved				0.049*
				(0.029)
Observations	1,217	1,159	1,157	1,157
R-squared	0.027	0.093	0.115	0.121

* Linear probability models are run where the outcome is 1 if the ex parte or hearing order was served on the respondent in-hand, and 0 if the order is served in another manner (abode, served on others, or other miscellaneous service) or not picked up, not served, or reported unable to serve. Only treatments and statistically significant controls are reported (see Web Appendix for full table). Standard errors (in parentheses) are clustered by the applicant's birthdate-sex-race. *** p<0.01, ** p<0.05, * p<0.1

Figure 6 presents identical models, except the dependent variable is more broadly defined to cover other forms of service. In-hand, abode, or other service now all count as served; the variable is coded as zero in cases where the order was not picked up, reported no service, or reported unable to serve. Attorney treatment effect remains above twenty percentage points and remains highly significant ($p<.01$). But in these specifications the effect of Yale law student assistance on this broader measure of service is estimated to be seven to nine percentage points and is now only a marginally significant treatment ($p<.1$ and in the first two specifications only). Ex parte orders appear more likely to be served (but only 10% significance). "Other" race applicants receive lower service, but no differences are observed for Black or Hispanic applicants, or different genders.[157] Wednesday applications are less likely to be served. Affidavit factors do not have any effect on service rates; although marshals have access to a copy of the application attached to the order, we do not see any evidence that marshals are triaging their delivery efforts based on the relative severity of the case.

[157] We performed similar tests of race combinations as in footnote 155, *supra*, but the only combinations producing significant results were those involving other (non-Black, non-Hispanic) races relative to white applicants.

FIGURE 6: SERVICE (OF ANY KIND) REGRESSIONS

VARIABLES	(1) Treatments	(2) Add Demographics	(3) Add Application	(4) Add Factors
Assisted by Yale	0.088*	0.091*	0.075	0.074
	(0.045)	(0.047)	(0.048)	(0.049)
Likely Assisted by Quinnipiac	0.034	0.029	0.029	0.029
	(0.032)	(0.033)	(0.033)	(0.033)
Attorney	0.283***	0.253***	0.247***	0.250***
	(0.038)	(0.045)	(0.046)	(0.046)
Ex Parte Granted		0.057*	0.068**	0.059*
		(0.031)	(0.031)	(0.032)
Other Race Applicant		-0.252***	-0.247***	-0.243***
		(0.070)	(0.071)	(0.071)
Wednesday			-0.105**	-0.101**
			(0.046)	(0.047)
Applicant reported previous court orders			-0.049	-0.054*
			(0.031)	(0.031)
Request for temporary custody			0.074*	0.073*
			(0.040)	(0.040)
Observations	1,217	1,159	1,157	1,157
R-squared	0.024	0.041	0.061	0.065

* Linear probability models are run where the outcome is 1 if the ex parte or hearing order was served (in any manner), and 0 if not picked up, not served, or reported unable to serve. Only treatments & statistically significant controls reported (see Web Appendix for full table). Standard errors (in parentheses) are clustered by the applicant's birthdate-sex-race. *** p<0.01, ** p<0.05, * p<0.1

The Web Appendix presents several different variants of the service models for robustness. Web Appendix Figure A7 presents identical models, except we drop observations with no service. Therefore, these regressions compare in-hand service to other forms of service (abode, served on others, and miscellaneous). Put another way, these models predict the likelihood of getting in-hand service, conditional on getting any service at all.[158] Yale treatment, ex parte grant, Black and Hispanic parties, and the existence of previous orders remain related to in-hand service in the same directions as Figure 5.[159]

C. *Potential Endogeneity and an Instrumental Variables Approach*

In this Section, we address concerns that two of our main variables of interest—ex parte grants and Yale treatment—might be endogenous, and we present an instrumental variable approach for robustness.

First, we might be concerned about endogeneity in the ex parte grant variable used in the subsequent service regressions. While we find a positive and significant effect of ex parte grant on service outcomes, the interpretation of this result is unclear. On the one hand, this might indicate that getting an ex parte grant increases your chance of service, perhaps because marshals triage and take these orders more seriously. On the other hand, there could be no true effect of getting an ex parte grant, and the observed differences are driven by unobservable factors. That is, those applicants who are likely to get their restraining orders granted are also more likely to get them served, perhaps because of increased education, grit, or external support.

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[158] Although we acknowledge that it is econometrically ideal to condition on one outcome and re-run the regressions, we do this only for robustness purposes after using the entire service outcome dataset in Figures 5 and 6 and now present the results in several different combinations to attempt to show the complete picture.

[159] Web Appendix Figure A10 presents similar models where in-hand service is now dropped, comparing abode and other service to no service. The only consistently significant variables in this model are Attorney treatment (positive) and whether the application was filed on Wednesday (negative). Web Appendix Figure A9 looks at whether applicants pick up their orders at all (outcome of 1 if order is not picked up, 0 if the order is picked up). We interpret coefficients as opposite (i.e., as likelihood of picking up). Attorney treated applicants are more likely to pick up, as are those granted ex parte protection and men when they are filing against other men. Applicant age is also significant in these models, though the significant squared term suggests a quadradic relationship where those who are age forty-five are least likely to pick up their orders (a difference of four percentage points compared to applicants who are eighteen or sixty-five years old). Visual inspection suggests this relationship is somewhat consistent with the relationship we observed in Web Appendix Figure A2(c), where much of the difference is driven by young applicants (who in this case are more likely to pick up their orders). Because the normative desirability of not picking up differs greatly for ex parte orders and hearing orders (serving the latter may increase danger to the applicant relative to the former), we run these regressions both on the full sample and only on the ex parte granted subsample. While attorney treatment remains robust, age and gender variables are no longer significant when excluding ex parte orders and instead relationships and residential status seem to matter in this subset (applicants are more likely to pick up orders involving family members they live with, relative to other family members or non-residential intimate partners; the relationship is the opposite for non-residential family members compared to non-residential intimate partners).

To test these competing explanations, we employ an instrumental variables approach. An instrument should be something that is an important predictor of ex parte grant rates but is theoretically unrelated to service rates (except through grant rates). We use as our instrument the vector of judge dummies. We have demonstrated earlier in this Part that judges are an important predictor of ex parte grant rates. However, we see no theoretical reason to expect that judges matter for service. Judges do not communicate with the applicants or marshals between their decision on the ex parte order and the hearing, and they are not involved whatsoever with service.[160] In Web Appendix Figure A8, we employ a two-stage least squares model.[161] In this model, the instrumented-for ex parte grant status loses its significance as a predictor of service. This is consistent with the latter explanation that ex parte orders are served at higher rates due to unobservable characteristics of their applicants.

Second, we might be concerned that the Yale treatment is endogenous; that is, we might be worried that applications of a different type or quality select into Yale treatment. We have articulated strong reasons to doubt such bias in the earlier portions of this Article. First, the mechanisms by which applicants find themselves at the Yale office should closely approximate random assignment on the days that the Yale office is open. Comparing applicants assisted by Yale to all other applicants, we find strong evidence of balance: none of our pre-treatment variables are statistically different at $p<.01$, only three of twenty-three are different at $p<.05$, and only three of twenty-three are different at $p<.1$.[162] These are the kinds of differences one would expect as a matter of chance. Comparing Yale-treated applicants to likely Quinnipiac-treated applicants, we are similarly balanced on all pre-treatment variables at $p<.01$, twenty-one of twenty-three pre-treatment variables at $p<.05$, and twenty of twenty-three variables at $p<.1$. More specifically, we are balanced on age, race, and gender of the applicant and associated applicant-respondent gender and race combinations, as well as most judges and most days of the week. The three exceptions at the 10% level are differences in the proportion of applicants that are Yale-treated on Tuesdays and Wednesdays[163] and a difference in the proportion of

[160] We considered the fact that marshals know which judge signed off on each order and might work harder for the Presiding Judge, or that they might take orders from judges with low grant rates more seriously. However, we see no difference in in-hand service rates between orders issued by the Presiding Judge or the judge with the lowest grant rate and other judges.

[161] Indeed, the first stage of this model is simply the earlier grant regression models, on a slightly smaller subset of those with non-missing service outcomes. The judge dummies are jointly significant as a predictor of grant rates on this sample (robust $F(6, 994) = 8.78$, $p<.001$)), though we acknowledge that some common rules of thumb would classify this instrument as a weak instrument.

[162] Web Appendix Figure A3 shows a test of balance between applicants assisted by Yale and Quinnipiac students, and between those assisted by Yale and the broader group of all other applicants.

[163] This difference is almost certainly driven by the fact that the Yale office was closed every Wednesday due to student scheduling issues for one semester in the sample.

Yale-treated cases that were decided by Judge 5.[164] Taken as a whole, we see no evidence from observable characteristics that Yale-treated applicants differ systematically from other applicants pre-treatment.[165]

However, we do see differences in some of the remaining application-level variables in Web Appendix Figure A3. Yale-treated applicants are higher in each of the following categories: reporting previous court orders, reporting related family court cases, requesting temporary custody, requesting other orders, and reporting that they live with the respondent. Similarly, Yale-treated applicants have higher reporting rates of police involvement and drugs in their affidavits, and generally report greater number of severity factors in their affidavits on average (1.10 vs. 0.92). While these differences could indicate that the applicants that are Yale-treated systematically differ from other applicants, we think that these differences are better understood as post-treatment outcomes. That is, one of the Yale office's main goals is to explain the forms to the applicants and ensure they are accurately reporting important information.

We are especially reassured by the balance results when we compare them to balance results on attorney treatment, something we might expect to be applied systematically. Indeed, attorney-treated applicants differ in five pre-treatment variables at the 5% level from non-attorney-treated applicants, including that they are significantly less likely to be filing against same-sex respondents and are significantly less likely to be Black.[166] While this somewhat muddies the interpretation of our observed attorney effect (because attorneys might be selecting or are being hired by systematically different applicants), we do not observe similar race or gender differences for Yale-treated applicants.

Still, it is conceivable that some applicants are bypassing the Quinnipiac office for the Yale one, and that those applicants differ in ways that are uncaptured by our observable pre-treatment characteristics. To provide additional robustness evidence against this conclusion, we again employ an

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[164] This difference is almost certainly driven by timing. Judge 5 only heard cases in a three-month period that coincided well with when the Yale office is open. Judge 5 does not have a significantly different grant rate than other judges.

[165] For robustness purposes, we also reran our core regressions in Web Appendix Figure A5 on data excluding Tuesday, Wednesday, and Judge 5 observations (representing about 43% of our overall sample) and estimated a Yale effect that was similar in terms of sign and significance.

[166] *See* Web Appendix Figure A3. We also observe that attorney-treated applicants are significantly more likely to have their application decided by Judge 2 and significantly less likely to have their application decided by Judge 3. The latter judge has the lowest grant rate of the six regular judges in our sample, raising some questions of whether attorneys have found a way to strategically file their applications to avoid Judge 3 (perhaps by figuring out the schedule pattern through their frequent interactions with the system as repeat players). Attorney-treated applicants also differ significantly in many other application variables, such as being more likely to report a related case, living with the respondent, or a sexual assault. As we have explained earlier, differences in these types of variables could indicate effective attorney assistance in preparing the application rather than further reflect systematic selection.

instrumental variables framework. This time, our instrument is whether the Yale TRO office is *open* on a particular day. The schedule of the Yale TRO office is determined by factors that should be unrelated to applicant quality: Yale's start, exams, and break schedule for each semester, student schedules and aggregate availability, and how quickly the TRO Project is able to put together its trainings and scheduling.[167] In one semester, for example, the office was forced to close on Wednesdays because student class schedules did not line up for enough volunteers to be available on those days. While the Yale schedule is seasonal, recall that monthly fixed effect models showed no evidence of seasonality on either granting or serving restraining orders.[168]

In Web Appendix Figure A8, we employ this instrument by itself and alongside the existing instrument for ex parte grants. As expected, Yale office open dates are a strong predictor of actual Yale treatment.[169] Further, the Yale effect retains its sign, significance, and relative magnitude in these models. This provides further confidence that our observed Yale treatment effects are unlikely to be biased by systematic selection into the Yale office.

V. POLICY IMPLICATIONS AND PROPOSALS[170]

We conclude by evaluating the efficacy of the Yale TRO Project's model of scaled-back clerical assistance for TRO applicants and by proposing possible reforms to the TRO application process that would reduce granting and service hurdles for pro se applicants.

A. *Evaluating Limited Law Student Assistance Programs*

1. *Informing Applicants of Salient Factors that Affect Grant Rules*

Neither Yale nor Quinnipiac law student assistance is associated with higher ex parte TRO application grant rates. However, Yale law student

[167] It is theoretically possible that some applicants strategically select which days they come to the courthouse to line up with when the Yale office is open. We suspect that such strategic selection is extremely unlikely, in part because the Yale schedule is not easily observable by applicants (likely requiring trial and error trips to the courthouse), because the emergency nature of TROs suggest that applicants may be harmed by waiting to file their application if the Yale office is not open, especially if the Quinnipiac office is open and providing assistance.

[168] Yale schedules are also somewhat determined by holidays; in unreported results we find that a rough indicator for major holidays or subsequent business days is not a significant predictor of grant or service rates.

[169] This instrument leads to a strong first stage (robust F(1,994)=470.60). Likely Quinnipiac treatment (because it is mutually exclusive with Yale treatment) is also a very strong predictor of Yale treatment in the first stage. In certain columns of Web Appendix Figure A8 we remove the likely Quinnipiac treatment from our in-hand service models for robustness; the Yale treatment effect remains virtually identical.

[170] Two of us have separately argued for variants of some of those policy proposals in popular press. Ian Ayres & Brendan Costello, *Temporary Restraining Orders in Connecticut Don't Always Take Effect; That Needs to Change*, HARTFORD COURANT (Oct. 6, 2019), https://www.courant.com/opinion/op-ed/hc-op-ayres-costell-villarreal-temporary-restraining-order-1006-20191006-iq4tydrqhfet5c623a5aneboai-story.html.

assistance is associated with a statistically significant increase in the number of severity factors the applicant mentions in the affidavit. We believe this is because students are encouraging applicants to be more thorough in their affidavits by, for example, asking the applicants questions about their experiences in a way that reminds them to include that information in their affidavits. To the extent permitted by the rules governing unauthorized practice, student assistance may be further improved by informing applicants of various factors that judges appear to find important in deciding whether to grant protection.

Not all of the severity factors we coded for were associated with increased grant rates; however, the applicant going to the hospital, the respondent using a weapon, and the police becoming involved all were. These severity factors have some support in literature as risk factors for femicide, although the academic community has not reached a consensus on what factors best predict a respondent's lethality or overall dangerousness.[171]

Specifically, availability of weapons is a factor that appears on several well-known lethality assessment scales[172] and weapons have been shown to be a fairly strong predictor of repeated incidents of physical abuse.[173] It is therefore logical that judges more often grant applications that mention weapons. Access to guns in particular has been associated with a significantly increased risk of femicide,[174] and studies have associated firearm prohibitions for restraining order respondents with a decrease in intimate partner homicides.[175] However, in our study, judges were no more likely to grant a TRO filed by applicants who reported that the respondent had a gun than those that did not. Another similar study to ours showed the same result.[176]

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[171] Jacquelyn C. Campbell, Daniel Webster, Jane Koziol-McLain, Carolyn Block, Doris Campbell, Mary Ann Curry, Faye Gary, Nancy Glass, Judith McFarlane, Carolyn Sachs, Phyllis Sharps, Yvonne Ulrich, Susan A. Wilt, Jennifer Manganello, Xiao Xu, Janet Schollenberger, Victoria Frye & Kathryn Laughon, *Risk Factors for Femicide in Abusive Relationships: Results from a Multisite Case Control Study*, 93 AM. J. PUB. HEALTH 1089, 1089 (2003) [hereinafter Campbell et al., *Risk Factors for Femicide in Abusive Relationships*].

[172] JACQUELYN C. CAMPBELL, DANGER ASSESSMENT, NAT'L CTR. ON DOMESTIC & SEXUAL VIOLENCE 1 (2001), http://www.ncdsv.org/images/DANGERASSESSMENT.pdf [hereinafter CAMPBELL, DANGER ASSESSMENT]; BARBARA J. HART, SAFETY FOR WOMEN: MONITORING BATTERERS' PROGRAMS, PA. COAL. AGAINST DOMESTIC VIOLENCE 96, 205 (rev. 2004), https://www.biscmi.org/bhart_Safety4Women2004.pdf.

[173] Amy E. Bonomi, Britton Trabert, Melissa L. Anderson, Mary A. Kernic & Victoria L. Holt, *Intimate Partner Violence and Neighborhood Income: A Longitudinal Analysis*, 20 VIOLENCE AGAINST WOMEN 42, 52 (2014).

[174] Campbell et al., *Risk Factors for Femicide in Abusive Relationships*, *supra* note 171, at 1092.

[175] April M. Zeoli & Daniel W. Webster, *Effects of Domestic Violence Policies, Alcohol Taxes and Police Staffing Levels on Intimate Partner Homicide in Large US Cities*, 16 INJ. PREVENTION 90, 90 (2010); Elizabeth Richardson Vigdor & James A. Mercy, *Do Laws Restricting Access to Firearms by Domestic Violence Offenders Prevent Intimate Partner Homicide?*, 30 EVALUATION REV. 313, 337 (2006); F. Stephen Bridges, Kimberly M. Tatum & Julie C. Kunselman, *Domestic Violence Statutes and Rates of Intimate Partner and Family Homicide: A Research Note*, 19 CRIM. JUST. POL'Y REV. 117, 119 (2008).

[176] Katherine A. Vittes & Susan B. Sorenson, *Are Temporary Restraining Orders More Likely to Be Issued when Applications Mention Firearms?*, 30 EVALUATION REV. 266, 276–77 (2006).

Applicants were also more likely to receive a TRO if they mentioned police involvement. Police presence has not usually been associated with an increased risk of femicide, but it is included in at least one well-known risk assessment tool.[177] Similarly, applicants going to the hospital for treatment was also associated with an increased grant rate in our study but is not usually included in risk assessment models. These results may demonstrate that judges' intuitions about what factors increase the risk of future violence are not supported by evidence. They may also indicate that judges favor cases that have supporting documentation from police or hospitals, even if the police and medical records are not included with the TRO application.

In our study, mentioning the respondent's drug use was not associated with an increase in grant rates. This may have been because of our definition of drugs, which incorporates all illegal drugs, including marijuana, but excludes alcohol abuse. One well-known lethality risk assessment tool only captures the use of "uppers," therefore excluding marijuana, and includes a separate question for alcohol abuse.[178] A recent, comprehensive assessment of lethality risk factors, however, found that the respondent's use of illegal drugs, and not excessive alcohol use, was associated with femicide, giving support to our study's definition of drug use.[179]

We do not observe a significant association between mentioning sexual violence and grant rates, though we note that sexual assault is rarely reported in our sample, which significantly lowers our power to find any effect. However, forced sex is associated with an increased risk of lethality.[180]

Judges who evaluated TRO applications should be trained in recognizing known risk factors for future violence, which would help them apply the law's requirement that TROs be given to applicants who are in an "immediate and present physical danger."[181] Other factors that have been identified as increasing the risk of femicide are whether the respondent is unemployed, lacks a college education, has ever lived with the applicant, recently stopped living with the applicant, abused the applicant during pregnancy, stalked the applicant, and lived with a child of the applicant who is not also the respondent's biological child.[182] Meanwhile, applicants should be informed about the factors that our study found to be associated with higher grant rates: presence of a weapon, seeking medical care at a hospital, and the presence of police officers during the incident.[183] Applicants should be aware, however, that informing the court that the respondent has guns

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[177] Barbara Hart, *Assessing Whether Batters Will Kill*, PA. COAL. AGAINST DOMESTIC VIOLENCE (1990), https://perma.cc/KH6J-L5QW.

[178] CAMPBELL, DANGER ASSESSMENT, *supra* note 172, at 1.

[179] Campbell et al., *Risk Factors for Femicide in Abusive Relationships*, *supra* note 171, at 1090.

[180] *Id.*

[181] CONN. GEN. STAT. § 46b-15(b) (2019).

[182] Campbell et al., *Risk Factors for Femicide in Abusive Relationships*, *supra* note 171, at 1089–91.

[183] *See supra* Part III.

will force the applicant to serve the respondent in a compressed period of no more than seven days from filing.[184]

Even if law student assistance does not increase overall grant rates, it may have the benefit of sorting meritorious from non-meritorious applications earlier in the process. A previous analysis undertaken by Ming-Yee Lin, a former TRO Project Director and volunteer, found that when looking at applicants who obtained only a hearing order and served it in-hand, only 4% of applicants assisted by Yale law students had a judge change her mind by subsequently granting protection at the hearing, compared with a 17% overall.[185] Law student assistance may help applicants who meet the statutory criteria receive assistance and prevent respondents who do not meet the statutory requirement from having their civil rights restricted, in part by encouraging applicants to describe the reasons they are applying in more detail than they might otherwise.

2. *Understanding and Replicating Effective Service Treatment*

Although student assistance does not increase grant rates, our evidence suggests that Yale student assistance does increase the percentage of orders that are served in-hand. We believe this result can be explained by the Yale volunteers' practice of providing information on the service process and its importance and then calling applicants to remind them to follow up on service. These follow-up calls may be having two different types of effects. The first could be encouraging applicants to give orders to a marshal, where they otherwise might not, for example, because the marshal was not at the courthouse when the application was granted or the applicant did not understand the process. The second could be encouraging applicants to communicate with the marshal assigned to deliver their order, which could increase the rate of service, or at least the rate of in-hand service, by marshals. The potential effectiveness of the phone calls on service outcomes suggests that limited assistance could take more flexible forms. To the extent law student or other programs have limited resources that restrict the ability of manning an in-court office, follow-ups on service with existing applicants could still be beneficial. Similarly, this result implies that assistance provided outside of the courthouse when courthouses are closed or in-person interactions are limited, as seen in the COVID-19 pandemic, could still be effective in assisting applicants if targeted appropriately.

3. *Other Benefits of Student Assistance*

Still, we caution against interpreting our results to mean that all in-person application assistance could or should be replaced with phone calls. First, we cannot differentiate what effect phone calls specifically have on service outcomes separate from the information provided in the office.

[184] CONN. GEN. STAT. § 46b-15(b) (2019).

[185] Lin, *supra* note 31, at 10–11. But note that the sample size for this comparison was quite small.

Further, there may be other benefits that are not as measurable as grant rates or service outcomes, like supporting an applicant emotionally through a taxing application process. This kind of support can be especially important for people experiencing family violence, since this type of crime was handled poorly by the justice system for many years. A lawyer associated with the Quinnipiac program endorsed the value of law student volunteers by saying that "in most courthouses, you have to shout out the details of your life with 50 people in line."[186] Student volunteer offices, like Quinnipiac's, "created a space where you can cry, you can cuss and rant and rave, and no one is going to think poorly of you."[187]

The Yale TRO Project's limited intervention, although effective at improving service outcomes for applicants, may be unappealing to law schools, which encourage their students to volunteer, in part, for educational purposes. Providing clerical assistance and making follow-up calls likely has less educational value to law students than representing clients at a hearing, where the students can practice interacting with a judge and presenting evidence. Government-funded programs, presumably, could be focused more exclusively on improving outcomes for applicants without having to balance the interests of the workers as highly. Another option would be to staff limited-scope programs like the Yale TRO Project with college—not law school—volunteers, who would get more educational value out of lower-skilled tasks.

B. *Improving Service*

Connecticut's current statutory scheme permits service in-hand or on the respondent's abode. However, service rates using either of these methods are relatively low; over one-third of applications are never served at all.[188] In this Section, we consider various possible improvements to the service scheme—in addition to increasing student and related assistance—that may increase the TRO service rate.

Of course, Connecticut—or any other state—is not completely unencumbered in setting its service procedures: there are constitutional constraints that limit the bounds within which states may tweak their processes. The requirement of proper service stems from the Fourteenth Amendment right not to be deprived of life, liberty, or property without due process of law.[189] The right requires courts to give defendants (in this case,

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[186] *Fellowship Program*, *supra* note 28.
[187] *Id.*
[188] *See supra* Part III (describing our New Haven-specific results).
[189] U.S. CONST. amend. XIV.

respondents) notice and the opportunity to be heard.[190] Only after proper service may a court exercise personal jurisdiction over a defendant.[191]

Given this requirement, it is perhaps surprising that Connecticut courts—and others throughout the country[192]—regularly issue ex parte TROs that alter the defendant's rights before he is given an opportunity to respond. The issuance of such ex parte orders has been frequently challenged on due process grounds across the country, and those challenges have been resoundingly rejected.[193] In applying a weighing of the interests at stake in ex parte TROs, courts have upheld ex parte TRO statutes "when the respondent's deprivations of property or visitation are temporary and subject to prompt hearing."[194] This is why each ex parte order is accompanied by an order relating to the subsequent hearing that must be served on the respondent.

The Supreme Court from time to time has critically evaluated the constitutional sufficiency of various forms of service. At the heart of permissible service is personal service, which "presents the ideal circumstance under which to commence legal proceedings . . . ."[195] But personal service is not the only constitutionally permissible method of service. Over time, the Supreme Court has moved from an insistence on personal service[196] to a recognition that justice sometimes may call for alternative forms of service.[197] The Court has considered the adequacy of such "substituted service" relative to "the traditional notions of fair play and substantial justice implicit in due process."[198] A method of service is adequate when it "gives reasonable assurance that the notice will be

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[190] Mullane v. Cent. Hanover Bank & Tr. Co., 339 U.S. 306, 314 (1950).

[191] Rachel Cantor, *Internet Service of Process: A Constitutionally Adequate Alternative?*, 66 U. CHI. L. REV. 943, 944 (1999) (citing David D. Siegel, *Supplementary Practice Commentaries*, 28 U.S.C.A. Rule 4 § C4-4). Note that further wrinkles apply when dealing with out-of-state defendants, for whom the court's personal jurisdiction may be questionable and remedied by personal service within the state. *See generally* Bevan J. Graybill, Comment, *'Til Death Do Us Part: Why Personal Jurisdiction Is Required to Issue Victim Protection Orders Against Nonresident Abusers*, 63 OKLA. L. REV. 821 (2011) (discussing this issue specifically in reference to Oklahoma law). This issue is separate, however, from the narrow issue we are dealing with: what forms of service are constitutionally permissible (against residents or nonresidents over which the court otherwise has personal jurisdiction) from a notice and due process standpoint.

[192] David H. Taylor, Maria V. Stoilkov & Daniel J. Greco, *Ex Parte Domestic Violence Orders of Protection: How Easing Access to Judicial Process Has Eased the Possibility for Abuse of the Process*, 18 KAN. J.L. PUB. POL'Y 83, 84 (2008).

[193] *Id.* at 94.

[194] *Id.* at 97 (citing, *inter alia*, Pendleton v. Minichino, No. 506673, 1992 Conn. Super. Ct. LEXIS 915, at *38 (Conn. Super. Ct. Apr. 2, 1992) (holding that an ex parte order, which suspended visitation for fourteen days until the hearing, did not violate due process)).

[195] Greene v. Lindsey, 456 U.S. 444, 449 (1982).

[196] Pennoyer v. Neff, 95 U.S. 714, 714–15 (1877).

[197] McDonald v. Mabee, 243 U.S. 90, 92 (1917) ("To dispense with personal service the substitute that is most likely to reach the defendant is the least that ought to be required if substantial justice is to be done.").

[198] Milliken v. Meyer, 311 U.S. 457, 463 (1940) (citation omitted).

actual."[199] Put another way, the method of service must provide "notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections."[200]

Importantly, the Court has emphasized that adequacy of service is a fact-based determination that hinges on the "realities of the case."[201] That is, service that is constitutionally adequate in one case might still fail in another[202] because of differences in either the factual circumstances of service or the nature of the interests at stake.[203] Further, actual notice, in general, is neither a sufficient nor a necessary condition for constitutional protections. That is, while service need not provide actual notice to be proper (it must only be *reasonably calculated* to give actual notice),[204] cases might be dismissed for clearly deficient service even when the defendant has actual notice.[205]

In the subsections that follow, we apply these constitutional bounds to critically evaluate the legality and effectiveness of Connecticut's current service practices. We present four possible strategies to constitutionally increase the rate of effective service of TROs, beginning with the most incremental change and progressing to more pronounced changes:

> *1. The state should create a service-tracking website to increase transparency and self-help for applicants to achieve effective service.*
>
> *2. Judges should employ carrot-and-stick incentives to increase the rates of in-hand service by marshals.*

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[199] Int'l Shoe Co. v. Washington, 326 U.S. 310, 320 (1945).

[200] Greene v. Lindsey, 456 U.S. 444, 449–50 (1982) (emphasis omitted) (quoting Mullane v. Cent. Hanover Bank & Tr. Co., 339 U.S. 306, 314 (1950)).

[201] *Id.* at 451.

[202] *See e.g.*, *id.* at 452–54 (finding that posting a notice on an apartment door is insufficient in the eviction case at issue but conceding that such service might be sufficient in other cases).

[203] Mullane, 339 U.S. at 313 (clarifying that due process requires "notice and opportunity for hearing appropriate to the nature of the case").

[204] *Id.* at 314.

[205] Cantor, *supra* note 191 at 945–46 (citing Dahl v. Kanawha Inv. Holding Co., 161 F.R.D. 673, 681 (N.D. Iowa 1995), which held that "indications of the defendant's actual notice of the action do not 'dispense with the requirements for proper service of process' when procedural rules are not complied with"). Cantor notes, however, that the Second Circuit has held a minority position that actual notice can overcome deficient service in certain cases. *Id.* at 951–52 (citing Morse v. Elmira Country Club, 752 F.2d 35 (2d Cir. 1984)). *See also* Bove v. Bove, 888 A.2d 123, 128 (Conn. App. Ct. 2006) , cert. denied, 895 A.2d 788 (2006) (setting out the general rule that "the Superior Court . . . may exercise jurisdiction over a person only if that person has been properly served with process, has consented to the jurisdiction of the court or has waived any objection to the court's exercise of personal jurisdiction" but nonetheless finding jurisdiction where there were "good faith efforts" to serve and the defendant's actions to evade service support a conclusion "that the defendant had actual notice") (citations and quotations omitted). Actual notice may also serve as a bar to a constitutional challenge to the abode service statute when abode service has been accomplished. *See* Weil v. Miller, 441 A.2d 142, 146 (Conn. 1981) (holding that "[w]ithout a finding that the plaintiff had no notice in fact, the plaintiff's attack on the statute permitting abode service must fail").

3. Marshals should increase the use of abode service, but only as a substitute for those orders currently going completely unserved.

4. The state should alter its statutorily permissible means of service to allow for a belt-and-suspenders system of alternate service, including certified mail and cell phone service.

Importantly, we note that while each proposal would be useful in isolation, they are by no means mutually exclusive. Connecticut, or another state, could simultaneously replicate the Yale TRO Project's interventions, create a service tracking system, improve in-hand service incentives, increase abode service, and adopt a belt-and-suspenders approach. Such a combination of reforms, we believe, would provide pro se applicants the best chance of achieving effective service.

1. *Create a Public-Facing Service-Tracking Website*

A leading treatise on Connecticut procedure instructs lawyers to "monitor the file and make any necessary follow-up phone calls to [e]nsure that process has been served."[206] Likewise, the Yale TRO Project allocates substantial time and effort for informing the applicants on the procedure for service and following up with them by phone to ensure effective service. Both interventions are associated with significantly higher rates of in-hand service, and attorney treatment is associated with increased service overall.[207] However, fewer than 10% of applicants are assisted by an attorney, and the Yale TRO Project assists only another 13%.[208] The remaining pro se applicants can be assisted by providing tools tailored at the effective mechanisms of attorneys and the Yale TRO Project: information and monitoring.

In particular, much of Yale volunteers'—and presumably attorneys'—efforts are directed at answering a simple question: whether the restraining order was served. Under the current statute, marshals are required to "as soon as possible, but not later than two hours after the time that service is executed, input into the Judicial Branch's Internet-based service tracking system the date, time and method of service."[209] Even if service was not effected prior to the hearing, marshals are required to record that service was unsuccessful into the same database.[210] However, this database is not currently accessible to applicants and their agents. Thus, an applicant may be unaware whether service has been effected, even when the court clerk has had this information for hours or even days.

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[206] 1 DUPONT ON CONNECTICUT CIVIL PRACTICE, *supra* note 91, at § 8-1.22.
[207] *See* findings *supra* Part IV.
[208] *See supra* Part III fig.1.
[209] CONN. GEN. STAT. § 46b-15(h)(3) (2019).
[210] *Id.*

Instead, applicants are required to expend effort at a time when they are undergoing great personal stress to personally contact the marshal to verify whether service is effected. Often applicants do not obtain a marshal's card or otherwise record his contact information and are left helpless to verify whether service has been effected. This state of uncertainty substantially reduces an applicant's ability to plan for her safety. It also makes it difficult for applicants to contact their marshals to ensure effective service, or to work with them on an alternate service plan, such as suggesting new locations where the respondent might be. Applicants that fare the best, unsurprisingly, are those who have assistance from attorneys or law students. It need not be this way. A simple solution is obvious: the state should open up its internal service tracking database to be public facing.

Most straightforwardly, a public-facing website would allow applicants to get real-time updates on their service status. By inputting identifying information, such as their docket number or perhaps their last name and birthdate, applicants could check whether service was pending, completed abode, or completed in-hand. This website should also provide the name and contact information of the marshal handling the applicant's service. That way applicants and their agents (including law students) could track online the marshal's service attempts and contact the marshal to remind him of service deadlines or to provide additional information. Providing applicants and their agents timely knowledge of abode service might also help them establish through respondent texts or emails that the respondent has received timely, actual notice. This proposal is not revolutionary or unrealistic: an applicant-facing database like this already exists in other states, including New York.[211] For this website to work best, orders should be entered into it as soon as they are given to the marshal, rather than the current system of reporting only after service is effected or failed, as described more fully in the next subsection.

2. *Improve In-Hand Service*

While both abode and in-hand service are permitted by the current statute, there are good practical reasons to prefer in-hand service when possible. In-hand service is immune from the kind of collateral attacks that lead judges to dismiss cases for insufficient service even when a marshal has indicated that abode service has been accomplished.[212] As a corollary, it ensures that respondents have received actual, timely notice of the hearing and a chance to prepare a response. Further, in-hand service allows applicants to better safety plan, since they know exactly when the respondent received the order, and not just when it was delivered. And being handed an

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[211] *Order of Protection Notification System*, NY.GOV, https://oopalert.ny.gov/oopalert/ (last visited Sept. 9, 2020).

[212] *See* TASK FORCE TO STUDY SERVICE OF RESTRAINING ORDERS, *supra* note 102, at 9–10 (describing judges' and prosecutors' reluctance to view abode service as sufficient).

order in person may have a stronger psychological impact that receiving it in the mailbox. However, in-hand service is only accomplished about one-third of the time.[213] Here, we consider ways to increase the rate of in-hand service via on-the-ground changes and altering incentives for marshals.

There are many barriers that interfere with applicants' receiving in-hand service. Applicants and law student volunteers have complained that some marshals do not show up for their assigned shifts on time or at all.[214]At least one marshal has been investigated for refusing to serve orders or becoming hostile toward applicants.[215] Marshals are subject to regulation by the State Marshal Commission for complaints like these.[216]

From the marshals' perspectives, serving TROs is difficult for reasons outside of their control. They resent having to come to mandatory shifts at the courthouse, and they personally pay for gas to get to the courthouse, even though there may be no applicants waiting for them on that day.[217] They are paid a flat rate of up to $60 for every TRO they serve, plus milage for one service attempt, regardless of how many attempts they have to make to serve it, so they do not have a large incentive to make multiple service attempts when the first one fails, or an incentive to achieve in-hand service if they will be paid for abode service the same way.[218] There are rumors among the bar that private lawyers allegedly avoid this problem by paying marshals a $100 fee beyond what the state provides.[219] In addition, many marshals consider the work dangerous, and if they ask for police backup, they may have to spend even more time waiting for assistance for the same flat fee.[220]

Many of these problems might be remedied if service was done by state employees. Salaried law enforcement officers, like sheriffs or police officers, serve restraining orders in the rest of New England and New York State.[221] Marshals could be paid an annual salary, as opposed charging on a per-order basis, which may reduce their incentive to complete service as quickly as possible. Another option would be to give service of TROs, but not other civil orders, to Connecticut police departments. Police have access to motor vehicle databases that can help officers find respondents. In addition, police may be better trained and equipped to handle dangerous situations. Police may also be more familiar with the community, know more about the respondents they are trying to serve, and convey a greater sense of

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[213] *See supra* Part III, fig.1.

[214] Lin, *supra* note 31, at 15.

[215] *See also* Melissa Bailey, *Panel Investigates Marshal*, NEW HAVEN INDEPENDENT (March 9, 2009), http://www.newhavenindependent.org/archives/2009/03/state_investiga.php.

[216] *See id.* (reporting that the Marshal Commission found probable cause to investigate that marshal).

[217] Lin, *supra* note 31, at 13.

[218] *Id.*

[219] Interview with Constance Frontis & Ellen Messali, Laws., New Haven Legal Assistance Ass'n, in New Haven, Conn. (Apr. 3, 2019).

[220] Lin, *supra* note 31, at 13–14.

[221] TASK FORCE TO STUDY SERVICE OF RESTRAINING ORDERS, *supra* note 102, at 16.

authority to the general public. States may be reluctant, however, to give more job responsibilities to police officers, particularly when there are calls to "defund" police departments and shift officers' job responsibilities to others. This job function need not be given to police officers specifically as long as the people serving the orders had similar oversight and training in de-escalation, and they did not have the same incentive problems independent contractors have.

Even if marshals continue to work as independent contractors, we propose several carrots and sticks that could improve their rates of in-hand service. First, a carrot: as described above, marshals are paid one fixed fee for service of an order, whether abode or in-hand. We propose changing the fee structure to pay more for in-hand service than abode service. This could be accomplished by either raising the payment for in-hand service above its current level, capping reimbursements for abode service at a fraction of the payment for in-hand service, or both.

Next, the sticks: a simple change to the existing service-tracking database could hold marshals more accountable. Currently the statute only requires marshals to input information once service has been completed, or in advance of the hearing if service had not been completed.[222] That is, there is no centralized record of which marshal has been assigned to which restraining order until the marshal returns a receipt of service to the court. More than a fifth, or 22%, of orders never have a return of service entered,[223] meaning that some marshals could be regularly failing to serve restraining orders without the Marshal Commission's knowledge. However, as noted earlier, it is also possible that many of these orders are never provided to a marshal at all. Better tracking when orders are provided to marshals should also be in the marshals' interest, as we could clearly identify the portion of unserved orders that they were never given to serve. Earlier reporting and better data collection would show whether the broken link in the chain is predominantly a failure of orders to be given to marshals, rather than any failure on the marshals' part to serve and report on orders they were given.

As one straightforward option, the burden could shift away from applicants to provide orders to a marshal directly, perhaps by having the clerk give orders directly to the marshals.[224] If this approach is adopted, the Clerk's Office should be trained to encourage applicants to fill out the Protection Order Service Respondent Profile Form as fully as possible, since the marshals will not be able to ask applicants follow-up questions in person.

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[222] *Id.* at 16–18.

[223] *See supra* Part III.

[224] *See* Tebbs & Tindill, *supra* note 88. One limitation of this approach is that having applicants provide the papers to a marshal allows the marshal to clarify unclear information or get additional information that would help with service. We suggest, however, that these communications need not happen at the stage of handing the papers to a marshal but could be accomplished by iterative conversations between the marshal and applicant after the marshal receives the papers by the clerk, perhaps facilitated by our web system.

Alternatively, or in addition, the Clerk's Office should make sure applicants are leaving working phone numbers so that marshals can call them with questions and updates.[225] Because of the on-going COVID-19 pandemic, the organization CT Safe Connect is currently serving as an intermediary between applicants and marshals.[226] The state should study how that system worked and whether it should be extended. Even if the system reverts back to its usual structure post-pandemic, with applicants handing orders to a marshal at the courthouse, we propose requiring the Clerk's Office to enter into the system the marshal's name associated with a particular order *as soon as a marshal is assigned*. This change would provide valuable information on the nearly one-fourth of applications with missing service data.[227] Then, administrators and applicants would know for every order that was not served, whether the order was given to a marshal, and if so, which one.

This information could be coupled with a variety of sticks. The complete dataset would allow for comparing each marshal to the average of other marshals assigned to that courthouse. Because marshals are regularly rotated on the on-call schedule, over large periods of time we would expect that the orders assigned to a particular marshal would be no more difficult to serve than those assigned to any other marshal. Rates of service failure that are substantially higher than average—or a substantially higher fraction of orders that are served abode versus in-hand—could indicate that a marshal is doing less than his best in serving these orders. The most straightforward consequence is already available: discipline by the Marshal Commission. State law provides that the Marshal Commission "shall . . . ensure that such restraining orders are served expeditiously," and "[f]ailure of any state marshal to accept for service any restraining order assigned by the commission or to serve such restraining order expeditiously without good cause shall be sufficient for the convening of a hearing for removal."[228]

Further, in addition to internal sanctions by the Marshal Commission, judges could take a more active role in investigating service issues. For example, judges could adopt a policy of subpoenaing the marshal assigned in a random selection of cases with no service or abode service, to inquire why in-hand service could not be accomplished. Or judges could use this remedy only when the modified internal database suggests a repeat problem.

3. *Abode Service as a Substitute for No Service*

For the reasons cited above, in-hand service should be preferred to abode service where both methods are possible. However, abode service is still

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[225] Although applicants should be able to limit the times the marshal calls them, for safety planning reasons.

[226] *See Procedure for the Remote Filing of Temporary Restraining Orders and Civil Protection Orders*, CONN. JUD. BRANCH, https://jud.ct.gov/remote_restrain.htm (last visited Apr. 21, 2021) (providing information on how to file a TRO remotely).

[227] *See supra* Part III.

[228] CONN. GEN. STAT. § 6-38b(f) (2019).

expressly permitted by the statute, and nearly one-third of orders are never served at all. Even substituting abode service for those cases where no service is currently accomplished would be a substantial improvement.

As a threshold matter, we ask whether abode service of TROs is constitutionally sufficient. Unlike abode service under the federal rules, which contemplates the summons be physically given to someone at the residence,[229] Connecticut's service statute merely requires that marshals "leav[e] an attested copy at [the respondent's] usual place of abode."[230] This method of service is similar to service by "posting" a summons at a residence, which has been scrutinized in several cases. Most notably, the issue of whether posting was sufficient was tackled head-on by the Supreme Court in *Greene v. Lindsey*.[231] There, the Court simultaneously "established the general permissibility of posting," while "strik[ing] it down as unconstitutional 'in the circumstances of this case.'"[232]

In *Greene*, officers affixed a notice of eviction to the doors of tenants' apartments as provided under Kentucky law.[233] The Court took notice of the fact that the abode service was of an action concerning the abode:

> [w]ith respect to claims affecting the continued possession of that residence, . . . [the tenant] might reasonably be expected to frequent the premises; if he no longer occupies the premises, then the injury that might result from his not having received actual notice as a consequence of the posted notice is reduced.[234]

In effect, the Court found that the method of service was particularly apt given the interest in the case and considered the degree of the injury from failed notice under the method of service. Still, however, the Court showed that the facts and circumstances of each case can overcome a presumption of valid abode service. In rejecting the service as constitutionally adequate in this case, the Court stressed that "process servers were well aware [that] notices posted on apartment doors in the area where these tenants lived were 'not infrequently' removed by children or other tenants before they could have their intended effect."[235]

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[229] FED. R. CIV. P. 4(e)(2)(B) (permitting service by "leaving a copy of [the summons and complaint] at the individual's dwelling or usual place of abode with someone of suitable age and discretion who resides there").

[230] CONN. GEN. STAT. § 52-54 (2019). Note the additional requirement that "[w]hen service is made by leaving an attested copy at the defendant's usual place of abode, the officer making service shall note in his return the address at which such attested copy was left." *Id.*

[231] 456 U.S. 444 (1982).

[232] Arthur F. Greenbaum, *The Postman Never Rings Twice: The Constitutionality of Service of Process by Posting After* Greene v. Lindsey, 33 AM. U. L. REV. 601, 620 (1984) (citing *Greene*, 456 U.S. at 453).

[233] *Greene*, 456 U.S. at 446.

[234] *Id.* at 452.

[235] *Id.* at 453.

To further support its reasoning, the Court held that "reasonableness of the notice provided must be tested with reference to the existence of 'feasible and customary' alternatives . . . ."[236] While the Kentucky statute required one attempt at personal service prior to posting—the Connecticut statute does not—the *Greene* Court noted disapprovingly that a first attempt fails "in a 'good percentage' of cases" but "[n]either the statute, nor the practice of the process servers, makes provision for even a second attempt at personal service . . . ."[237] "The failure to effect personal service on the first visit," the Court admonished, "hardly suggests that the tenant has abandoned his interest in the apartment such that mere *pro forma* notice might be held constitutionally adequate."[238] In concluding, the Court hints at a way that abode service in this case could have been sufficient: the use of concurrent mail service.[239] While conceding that service by mail is "far from the ideal[,]"[240] the Court had "no hesitation in concluding that posted service *accompanied* by mail service, is constitutionally preferable to posted service alone."[241]

In light of *Greene*, Connecticut's practice of serving TROs by leaving them at the respondent's abode—without more—is of questionable constitutional sufficiency[242] and ripe for due process challenges depending on the facts and circumstances of each case. The interests involved are similar: the Court in *Greene* stressed that the respondents whose eviction notices were served by posting had property interests in their homes at stake;[243] restraining order respondents may also lose the ability to stay in their homes, in addition to other restrictions on their freedom of movement.[244] And the facts of the case may present similar issues to *Greene*, such as an area known for having postings removed.[245] In fact, the case in *Greene* had an additional indicium of reliability that many TROs lack: the fact that these were eviction proceedings at least ensured that the respondent's address was correct. Courts weighing sufficiency of abode

[236] *Id.* at 454.

[237] *Id.*

[238] *Id.*

[239] *Id.* at 455.

[240] *Id.* at n.9. The dissent further strongly disagrees with the suggestion of mail service due to "loss, misdelivery, lengthy delay, or theft." *Id.* at 460 (O'Connor, J., dissenting).

[241] *Id.* at 455 n.9 (majority opinion).

[242] Indeed, one article explicitly lists the Connecticut abode service statute, along with two other states, as one that "require[s] further examination after *Greene*." Greenbaum, *supra* note 232, at 626–27. *But see* Arms v. Gibbs, No. SPNH 8303-3907, 1983 WL 187768 (Conn. Super. Ct. June 3, 1983) (unpublished) (rejecting a challenge to the sufficiency of abode service shortly after *Greene* and citing the same, despite statistics presented by Yale Law School students showing a discrepancy in the rates of judgment for failure to appear between abode service and personal service); Smith v. Smith, 183 A.2d 848, (Conn. 1962) (concluding, prior to *Greene*, that abode service was sufficient to confer jurisdiction, at least in circumstances where the defendant was served at his abode and provided actual notice by a phone call from his daughter about the papers being delivered to his home).

[243] *Greene*, 456 U.S. at 450–51.

[244] *See* Taub, *supra* note 89, at 103–06.

[245] *Greene*, 456 U.S. at 453.

service in TRO hearings must further wrestle with the possibility that the applicant provided an address that was incorrect.

Therefore, it is of little surprise that abode service in Connecticut is considered easily challenged in general[246] and that judges often dismiss TRO cases specifically where only abode service was accomplished.[247] Still, this does not mean that abode service can never be constitutionally sufficient, or that it will not provide the applicant with effective protection in many cases. Most notably, applicants often show up to a hearing after having been abode served and effectively waive any challenges they may have had to proper service.[248] In this way, abode service often furthers the applicants' goal: allowing the proceedings to go forward.

Even when the respondent does not show up (or does not waive any challenges to quality of service), there is no bright-line rule for assessing the permissibility of abode service. Case law directs judges to consider the facts and circumstances of the case to determine whether due process was satisfied.[249] Judges may be more willing to accept a record of abode service as sufficient if, for example, the applicant can present other evidence (such as a text message or testimony) showing when the respondent received timely notice of the order.[250] Thus abode service can be strengthened if applicants are able to provide additional evidence to satisfy the court that the abode service in that case was reasonably calculated to provide actual notice of the action. Applicants should be informed, perhaps on the marshal information form or the TRO itself, of the importance of gathering this additional information, and those assisting them (including law student volunteers) should stress this point.

Perhaps most straightforwardly, the likelihood that a court will accept abode service can be strengthened by borrowing the Supreme Court's suggestion in *Greene*. Marshals, the court clerk, or perhaps even the applicants themselves could easily and cheaply mail a copy of the order whenever the service the marshal provided was only abode service.[251] Or, this could be done as a matter of course in all cases, a belt-and-suspenders approach that we explore further in Section V.B.4, *infra*.

In sum, if many of the cases where return of service was missing were provided at least abode service, perhaps accompanied by mail service, a substantial fraction of respondents who currently go unserved would likely appear in court and, either via waiver or timeliness evidence, be subject to

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[246] 1 DUPONT ON CONNECTICUT CIVIL PRACTICE, *supra* note 91, at § 8-1.24.

[247] TASK FORCE TO STUDY SERVICE OF RESTRAINING ORDERS, *supra* note 102, at 9–10.

[248] *Id.* at 10.

[249] *See Greene*, 456 U.S. at 449–50.

[250] Interview with Judge Erika M. Tindill, *supra* note 104.

[251] *Cf.* Arms v. Gibbs, No. SPNH 8303-3907, 1983 WL 187768, *3 (Conn. Super. Ct. June 3, 1983) (unpublished) (declining the defendant's request to require mailing in conjunction with abode service on the grounds that this was not required to make abode service constitutionally sufficient). Again, reliable tracking of any mailed order is important for the applicant's ability to plan for her safety.

the court's jurisdiction. In fact, service in New Haven already seems to be moving in that direction. When Ming-Yee Lin analyzed TRO applications in 2013, only 7% of all orders were being abode served, compared with 41% receiving in-hand service.[252] In our study, 24% of orders were abode served, suggesting that this increase in orders abode service may have come in part at the expense of in-hand service.

If a policy encouraging abode service were to be implemented, it should be done in a way that does not encourage marshals to complete in-hand service less often, for all the reasons we have articulated earlier that suggest in-hand service is preferable.

To ensure that enhanced abode service does not further come at the expense of in-hand service, the Marshal Commission and judges could use the enhanced service-tracking system proposed earlier. This system would provide real-time data on whether increases in abode service are increasing overall service rates or are instead coming at the expense of decreased in-hand service rates.

4. *Certified Mail or Cell Phone Service: A Belt-and-Suspenders Approach*

The three previous proposals are aimed at improving service rates on the ground, while still operating within the current statutory framework of abode and in-hand service. Now we ask whether this framework can be expanded to provide alternate methods of permissible service. We propose additional forms of service not to necessarily replace abode or in-hand service, but in the form of a belt-and-suspenders approach. Here, we first consider the legal sufficiency and potential efficacy of two alternative methods of service: certified mail and cell phone service. Then we consider the possible logistics of a belt-and-suspenders approach.

First, we consider service through certified mail. In fact, service by mail is the only exception to abode or in-hand service currently contemplated by the restraining order statute.[253] This exception is limited to the case where an applicant is seeking an extension of an existing order, and the respondent did not previously make an appearance.[254] We propose extending mail service beyond this narrow exception to allow certified mail service of the original ex parte order and notice of hearing.

To be sure, such a change would require legislative amendment. Under the current statutory scheme, service of process must be accomplished by a "proper officer," which would presumably exclude a postal worker.[255] We

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[252] Lin, *supra* note 31, at 12. Back-of-the-envelope adjustments to make our numbers more directly comparable and tests of statistical equality continue to suggest large differences in these service rates since 2013.

[253] CONN. GEN. STAT. § 46b-15(g) (2019). Note that this exception actually allows service by first-class mail, while we propose certified mail for serving the ex parte order and notice of hearing.

[254] *Id.*

[255] *Id.* § 46b-15(h)(2).

note, however, that the general civil process statute allows service by certified mail for nonresidents located out of state.[256]

Such a change would also need to be evaluated to ensure it comported with the constitutional boundaries set out above. Mail service as a general matter has long been discussed favorably by the Supreme Court[257] and has been interpreted to be "the minimum notice constitutionally required."[258] Still, there exists some debate over whether service by standard, first-class mail is sufficient, or whether an enhanced form of mail with signature or receipt confirmation is required.[259] In any case, our proposal sidesteps this issue by focusing on certified mail, the strongest form of mail service, which both requires a signature and returns a receipt of delivery, and by considering certified mail in a belt-and-suspenders system, rather than proposing a pure mail service system.[260]

In addition to or instead of certified mail, a similar approach could be accomplished via "cell phone service." Under this approach, a respondent would be notified of a pending ex parte restraining order or hearing order by a text message to his cell phone. He could then click a link to receive more information about the order on a website, which could be a subpage of the tracking website described above. By visiting and entering in identifying information on the site, this notification could also serve as evidence of notice to the respondent. Like certified mail, this method would also likely require legislative amendment to the Connecticut service of process statute.[261]

Like certified mail service, cell phone service must be critically evaluated to determine whether it provides constitutionally valid due process to respondents. We are not the first to ask this question. As the internet and electronic communication has become increasingly ubiquitous over the past several decades, scholars have begun to consider the ways that traditional service methods can be constitutional and be made electronic.[262] While some

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[256] *Id.* § 52-59b(c) (in conjunction with service on the Secretary of State and assuming personal jurisdiction is satisfied).

[257] *See, e.g.*, Greene v. Lindsey, 456 U.S. 444, 455 (1982) (describing mail as efficient, inexpensive, and relied upon by "prudent men" conducting "important affairs"); Greenbaum, *supra* note 232, at 623 ("The Court's infatuation with service by mail is long standing and often expressed.").

[258] Greenbaum, *supra* note 232, at 624.

[259] *Id.* at n.143 (citing differences across lower courts and commentators on the type of mail service required).

[260] *Cf.* N.Y. C.P.L.R. § 308 (McKinney 2010) (allowing, where service by preferred methods "cannot be made with due diligence," a combined method of "affixing the summons to the door of . . . [the] usual place of abode . . . and by either mailing the summons to such person at his or her last known residence or by mailing the summons by first class mail to the person to be served at his or her actual place of business."

[261] Rather than make specific allowances for certified mail or text message service, Connecticut could follow New York's lead, which expressly permits courts to direct alternative methods of service if personal service is impractical. *See* N.Y. C.P.L.R. § 308 (McKinney 2010) (allowing service "in such manner as the court, upon motion without notice, directs, if service is impracticable under [other traditional methods]."

[262] Cantor, *supra* note 191, at 964–65.

have argued that electronic service violates due process,[263] the emerging consensus appears to be that electronic service—if done properly—can constitutionally substitute for traditional methods.[264] And while the Connecticut Supreme Court has recently held that fax constitutes "personal delivery," at least for the limited purpose of timely delivering process from a plaintiff to a marshal, several Justices wrote in dissent, in part to "note that several courts and scholars have raised various concerns about electronic service, including the problem of verifying whether and when such communications were opened or viewed."[265] We are mindful of these concerns in the design of the system that we propose.

To justify the constitutional merit of electronic service, commentators have argued that, under the proper circumstances, e-mail is "reasonably calculated" to notify the defendant of the pending action.[266] In fact, because of the ubiquity, reliability, and speed of e-mail, it might even be better calculated to provide notice to the defendant than other traditional methods of service. An e-mail will reach the defendant instantly, "whereas a piece of 'first class' mail may sit unread in a defendant's mailbox for days while the defendant is out of town, or a process server may be unable to locate a defendant."[267] Some jurisdictions may have started to warm up to the academy's suggestion by creating rules that could allow electronic service in at least some circumstances.[268]

While most of the literature focuses on service by e-mail,[269] and we are open to such e-mail service in the context of TROs, we choose to instead focus on cell phone service because of the realities of the interactions between applicants and respondents. Abuse often comes with harassment by text messages or phone calls. Indeed, in our experience, applicants nearly always have the respondent's cell phone number, even in cases where the applicant does not know the respondent's current address. While of course

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[263] *See, e.g.*, Matthew R. Schreck, *Preventing "You've Got Mail"™ from Meaning "You've Been Served": How Service of Process by E-Mail Does Not Meet Constitutional Procedural Due Process Requirements*, 38 J. MARSHALL L. REV. 1121, 1142–45 (2005).

[264] *See, e.g.*, Cantor, *supra* note 191, at 963–67; John M. Murphy III, Note, *From Snail Mail to E-mail: The Steady Evolution of Service of Process*, 19 J. C.R. & ECON. DEV. 73, 110 (2004); Jeremy A. Colby, *You've Got Mail: The Modern Trend Towards Universal Electronic Service of Process*, 51 BUFF. L. REV. 337, 372–81 (2003).

[265] Johnson v. Preleski, 229 A.3d 97, 99, 115 (Conn. 2020) (McDonald, J., joined by Mullins and Kahn, JJ., dissenting).

[266] Cantor, *supra* note 191, at 963–64.

[267] *Id.* at 965.

[268] Claire M. Specht, Note, *Text Message Service of Process—No LOL Matter: Does Text Message Service of Process Comport with Due Process?*, 53 B.C. L. REV. 1929, 1948–49 (2012).

[269] *See, e.g.*, Cantor, *supra* note 191 (discussing internet service and concentrating on email service specifically); Colby, *supra* note 264 (discussing primarily email but also facsimile and other electronic communication methods); Murphy, *supra* note 264 (discussing email service and technological predecessors). *But see* Specht, *supra* note 268, at 1929 (considering cell phone service and concluding that it is not per se unconstitutional, but that technological limitations may counsel against cell phone service).

this method comes with potential limitations, such as changed or disconnected phone numbers, we believe cell phone service to the phone number the respondent is using to communicate with the applicant is reasonably calculated to provide the respondent with notice of the action.

While the idea of cell phone service has been criticized for being (1) informal, (2) lacking confirmation of receipt, and (3) its inability to include documents,[270] our proposed operationalization of cell phone service avoids these hurdles by combining a text message with an internet database. The cell phone text would link the respondent to the website portal page, which would appear more formal, could confirm the time that the respondent followed the link, and could easily include documents such as a scanned copy of the ex parte order and summons.

Assuming that either certified mail or cell phone service may be constitutionally permissible, we now consider how and when they should be used. A belt-and-suspenders approach could be structured in three ways: (1) mail and cell phone service could be used as a first-line attempt, with traditional service only if they fail; (2) mail and cell phone service could be used concurrently with traditional service for redundancy; or (3) mail and cell phone service could be used as a backup if traditional methods fail.

Using these alternative methods as a first-line approach is tempting from a cost and efficiency perspective: either certified mail or text messages are less expensive than service by a marshal and could be done automatically by staff at the Clerk's Office. The Clerk's Office could adopt a system, for example, in which they automatically send out all orders via certified mail or text message. USPS could email back the Clerk's Office with a signed return receipt. If the Clerk's Office fails to get back the return receipt within forty-eight hours, then it could hire marshals to try to achieve in-hand service.

However, we believe that a first-line approach would be mistaken, as certified mail and cell phone service are not perfect substitutes for in-hand service. Unlike in-hand service, which quells any doubt about adequate service, either alternative method could still be open to collateral attacks. Further, in-hand service provides other non-notice benefits to applicants. Most notably, in-hand service appears to provide the greatest likelihood that prosecutors will move forward with a criminal action to enforce the order if it is violated. Prosecutors may decline to enforce orders that were only served by mail or by cell phone, similar to their hesitance to enforce abode-served orders today.[271] In addition, we have heard some reports that some marshals take the time to explain what the order means and emphasize to the respondent that he must comply with its provisions, which a postal worker would not be able to do. Finally, in-hand service (if there is a good working relationship between the applicant and the marshal) allows for the

[270] Specht, *supra* note 268, at 1955.

[271] *See supra* note 102 and accompanying text (describing the findings of a state task force).

best safety planning by applicants, relative to certified mail or text messages, which could be delivered at unpredictable times.

That said, we strongly support a belt-and-suspenders approach where certified mail or cell phone service would be attempted simultaneously with traditional marshal service, or as a backup if marshal service fails. As both methods of alternative service are inexpensive and simple, they would add little marginal cost to the cost of serving each order. The marginal benefits, however, may be substantial. In cases where marshal service fails completely, certified mail or cell phone service may succeed and be recognized by the court as sufficient service on its own. Or, in the many cases where marshals are only accomplishing abode service, mail or cell phone service might encourage applicants to appear at the hearing and waive service requirements. At a minimum, it would ensure that the service has an additional indicium of reliability to convince the trial judge that due process has been satisfied in this case.

C. *Other Reform Suggestions*

The focus of this study is the effect of student assistance and various service hurdles faced by pro se applicants. Still, in coding over one thousand TRO applications by hand, we noticed several additional trends in application grants that are worth mentioning. In the remaining subsections, we highlight three aspects of the TRO application process that are ripe for future study and reform.

1. *Variation in Grant Rates Across Judges*

Grant rates among judges varied considerably, from 45% to 70% at the extremes. This suggests that similar applicants may receive very different outcomes depending on which judge handles their order. As one idea, social science research suggests that providing judges with information on grant rates could reduce disparities in outcomes.[272]

2. *Firearm Restrictions*

In many states, firearm restrictions are poorly enforced. In 2005, for example, a report to the California Attorney General found that no law enforcement agency in the counties studied had a procedure in place to consistently remove guns from restraining order respondents, even though respondents were required to turn in their guns.[273] Recall that under the legislative change Connecticut made in 2016, applications that report guns

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[272] See psychologist Solomon Asch's famous conformity experiments, Solomon E. Asch, *Studies of Independence and Conformity: I. A Minority of One Against a Unanimous Majority*, 70 PSYCH. MONOGRAPHS: GEN. & APPLIED 1, 2, 70 (1956), which showed that a large minority of people will answer an obvious question incorrectly if everyone else in the group does so as well.

[273] Paul L. Seave, *Disarming Batterers Through Restraining Orders: The Promise and the Reality in California*, 30 EVALUATION REV. 245, 245–47, 261–64 (2006).

require a compressed time to serve the order, raising the chance that the order is not served at all, under the theory that respondents are being deprived of their guns during that period. Conversations with people involved with the restraining order system in Connecticut suggest that the state may be struggling with similar enforcement issues. One of us has argued elsewhere that states should move beyond the "honor system" and proactively move to disarm firearm licensees who are prohibited from possessing guns.[274]

CONCLUSION

Large-scale but limited-scope interventions in domestic violence law are promising, although their effects may be limited. In this study, we found that law student assistance is not associated with increased or decreased grant rates of restraining orders. However, law student assistance does appear to play an important and effective role in improving service, which is one of the largest hurdles for pro se applicants. Insight from this study can be used to make sure these interventions, which are likely to continue, work as effectively as possible.

[274] *See generally* IAN AYRES & FREDRICK E. VARS, WEAPON OF CHOICE (2020) (arguing that states enact unlawful possession petition process authorizing courts to order disarming people who are prohibited from owning firearms).